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# EXECUTIVE DOCUMENTS

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ANNUAL REPORTS FOR 1906

MADE TO THE

## Seventy-Seventh General Assembly

OF THE

# STATE OF OHIO.

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## PART III.



COLUMBUS, OHIO:  
F. J. HEER, STATE PRINTER,  
1907.



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SIXTY-EIGHTH ANNUAL REPORT

OF THE

BOARD OF PUBLIC WORKS

ALSO THE

Fifth Annual Report of the Board of Public Works, and  
the Chief Engineer of Public Works, Acting as a  
Joint Board in the Management and Con-  
trol of the State Public Parks and  
Pleasure Resorts of Ohio

TO THE

Governor of the State of Ohio

FOR THE

Year Ending November 15, 1906.





OFFICE OF BOARD OF PUBLIC WORKS.

COLUMBUS, OHIO, November 15, 1906.

*To his Excellency, ANDREW L. HARRIS, Governor of Ohio:*

SIR:— I have the honor to transmit to you herewith the sixty-eighth annual report of the Board of Public Works.

GEO. H. WATKINS,  
*President Board of Public Works.*





The Sixty-Eighth Annual Report

OF THE

BOARD OF PUBLIC WORKS.

---

HON. ANDREW L. HARRIS, *Governor of Ohio.*

SIR: — The sixty-eighth annual report of the Board of Public Works of Ohio for the fiscal year ending November 15, 1906, is herewith presented.

As required by law, the Board was reorganized on the second Tuesday of February, 1906, at which time Hon. Wm. Kirtley, Jr., of Defiance County, took his seat as a member of the Board, having been re-elected in November, 1905.

Having given a bond in the sum of \$30,000.00, which was approved by the Governor and filed with the Treasurer of the State, he was sworn in and assumed the duties of the office.

Hon. Geo. H. Watkins, being the senior member, was, agreeable to a rule of the Board, elected President for the ensuing year..

Hon. B. W. Baldwin, of Ashtabula County, having been appointed a member of the Board to fill the unexpired term of the late Richard B. Crawford, and having filed his bond in the sum of \$30,000.00, and taken the oath of office took his seat as a member of the Board.

MEMBERS OF THE BOARD.

NAME.	RESIDENCE.	EXPIRATION OF TERM.
Geo. G. Watkins.....	Portsmouth .....	Second Tuesday in Feb'y, 1907
Wm. Kirtley, Jr.....	Defiance .....	Second Tuesday in Feb'y, 1909
B. W. Baldwin.....	Jefferson .....	Second Tuesday in Feb'y, 1909

For the convenience of the Board, the public works of the State were divided into three grand divisions same as heretofore, to-wit:

Grand division No. 1, embracing that portion of the Ohio Canal extended from Cleveland to Muskingum slack water at Dresden, including the Six Mile remnant of the Walhonding Canal, 19 miles of which was abandoned by an act of the General Assembly (see House Bill No. 508, passed April 27, 1896) making a total of 157 miles.

Grand division No. 2, embracing that portion of the Ohio Canal extending from Dresden Junction to Portsmouth, including the Columbus



Feeder, a distance of 169 miles. Also the State's reserved rights in the Hocking Canal.

Grand division No. 3, all of the Miami and Erie Canal extending from Cincinnati to Toledo, including the feeders and reservoirs.

#### OFFICERS BY APPOINTMENT.

CHIEF ENGINEER — Charles E. Perkins, Akron, appointed by the Governor; term expires May 22nd, 1908.

ASSISTANT ENGINEER — Samuel Bachtell, Columbus, appointed by the Board; term expires second Tuesday in February, 1908.

SECRETARY — W. H. McClintock, Defiance, appointed by the Board for the year ending second Tuesday in February, 1907. Died March 24th, 1906. W. E. Thompson, of Ironton, appointed by the Board to fill unexpired term.

ASSISTANT SECRETARY — Chas. W. Diehl, Cambridge, appointed by the Board for the year ending second Tuesday in February, 1907.

CHIEF CLERK LAND DEPARTMENT — Wheeler C. Wikoff, appointed by the Board for the year ending second Tuesday in February, 1907. Resigned August 15th, 1906.

ENGINEER LAND DEPARTMENT — Edward E. Booton, Patriot, appointed by the Board for the year ending second Tuesday in February, 1907.

DRAUGHTSMAN — Amos H. Sawyer, Columbus, appointed by the Board for the year ending second Tuesday in February, 1907.

MESSENGER — F. W. Schaub, Columbus, appointed by the Board; term expires second Tuesday in February, 1907.

#### SUPERINTENDENTS.

(Term expires March 31, 1907.)

Name.	Location.	Yearly Salary.
Chas. Hatch.....	Akron .....	\$1,700 00
Chas. H. Geidel.....	Coshocton .....	1,700 00
Harry R. Morris.....	Portsmouth .....	1,700 00
Chas. Cooper .....	Reading .....	1,700 00
John O'Connor .....	Dayton .....	1,700 00
H. W. Meacham.....	Toledo .....	1,700 00

## COLLECTORS ON MIAMI AND ERIE CANAL.

(Term expires March 31, 1907.)

Name.	Location.	Yearly Salary.
Chas. Wittich .....	Toledo .....	\$600 00
D. H. Hancock.....	Napoleon .....	400 00
H. W. Myers.....	Defiance .....	420 00
Jos. A. Claypool.....	Delphos .....	250 00
W. A. Moxley.....	St. Marys.....	500 00
Frank C. Davies.....	Piqua .....	300 00
Elmer Wambold .....	Dayton .....	600 00
E. C. Booth.....	Middletown .....	400 00
J. W. Sullivan.....	Lockland .....	550 00
Fred. Maag .....	Cincinnati .....	1,000 00

## COLLECTORS OHIO CANAL.

Name.	Location.	Yearly Salary.
Jas. M. Jones.....	Cleveland .....	\$900 00
J. H. Morrison.....	Akron .....	600 00
Mrs. Margaret S. Harvey.....	Canal Dover .....	450 00
David Atwater .....	Massillon .....	300 00
W. H. Wilson.....	Roscoe .....	420 00
W. H. Kirkendall.....	Newark .....	.....
W. H. Kirkendall.....	Carroll .....	.....
W. H. Kirkendall.....	Columbus .....	.....
W. H. Kirkendall.....	Circleville .....	300 00
Quimby Climer .....	Chillicothe .....	300 00

## LOCK TENDERS.

MIAMI AND ERIE CANAL.

Name.	Location.	Monthly Salary.
Geo. Maccabee .....	Toledo .....	\$25 00
John Allen .....	Miami .....	15 00
H. C. Bortel.....	Providence Feeder .....	20 00
J. R. Mapes.....	Locks Nos. 42 and 43.....	10 00
Chas. Hauchett .....	Lock 41, waste way.....	15 00
Mrs. S. Rose.....	Independence .....	15 00
Wesley Koley .....	Defiance .....	25 00
A. Bolmer .....	Lock No. 32.....	5 00
James R. Byrum.....	Lock 14 .....	5 00
Mrs. A. M. Trowbridge.....	Feeder Grand Reservoir.....	12 00
A. E. Shaffer, patrolman from.....	Waterville to Otsego.....	20 00
Sherman Galispie, patrolman from..	Blue Creek to Ottoville.....	30 00



## LOCK TENDERS — Concluded.

## MIAMI AND ERIE CANAL.

Name.	Location.	Monthly Salary.
Wm. Smith, patrolman from.....	Ottoville to Delphos.....	35 00
James Kohn, patrolman from.....	Delphos to Spencerville.....	40 00
Wilson Fosnight, patrolman from...	Spencerville to St. Marys.....	30 00
Wesley McDonald, patrolman.....	Grand Reservoir .....	60 00
Julius Powell .....	Loramie Reservoir .....	10 00
A. O. T. Andrus.....	Lewistown Reservoir .....	10 00
Chas. Shafer .....	Port Jefferson .....	10 00
Theo. Gates .....	Sidney .....	3 00
Wm. Shaffer .....	Summit Level .....	3 00
C. F. Thomas.....	Piqua .....	10 00
Jas. Maley .....	Piqua .....	10 00
Geo. Dixon .....	Still House Lock.....	25 00
Josiah Couch .....	Troy .....	3 00
Louis Shaffer .....	Troy Feeder Lock.....	12 00
Elmer Sherdian .....	Picayune Lock .....	10 00
John Wood .....	Dayton .....	25 00
Daniel Tehan .....	Dayton waste gates.....	5 00
Wm. Sprow .....	Snyders' mill .....	10 00
Frank Grundish .....	Dryden Lock .....	5 00
Simon Strader .....	Carrollton .....	20 00
Wm. Meyers .....	Miamisburg .....	20 00
J. C. Gebhart .....	Sunfish Lock .....	15 00
J. D. Beatty.....	Franklin .....	10 00
Frank Dine .....	Middletown Feeder .....	40 00
Andy Barnickle .....	Middletown .....	10 00
Syl. Fleming .....	Amanda .....	18 00
J. E. Rupp.....	Rockdale .....	10 00
J. N. Abott .....	Hamilton .....	20 00
W. H. Kemp.....	Rialto .....	10 00
J. W. Gorman.....	Crescentville .....	10 00
James Aylward .....	Lockland .....	22 00
Theo Reutinger .....	Port Union .....	2 50
J. N. Abbott.....	Hamilton .....	20 00
Lenard Herzog .....	Dwyer's .....	10 00

## LOCK TENDERS.

## ERIE CANAL.

Name.	Location.	Monthly Salary.
Irwin Murphy .....	17 Mile Lock.....	\$20 00
L. Seeley .....	Peninsula .....	20 00
Chas. Lewis .....	Yellow Creek .....	20 00
Chas. Savacool .....	Akron Locks .....	45 00
S. P. Wygandt.....	Clinton .....	20 00
Selam Woods .....	Reservoir .....	5 00
W. M. Ridwell.....	Massillon .....	6 00
Wm. Hublinger.....	Wolf Creek .....	5 00
Wm. Lovell .....	Trenton .....	20 00
Wm. S. Smart.....	Adams Mills .....	20 00

## LOCK TENDERS — Concluded.

## ERIE CANAL.

Name.	Location.	Monthly Salary.
Wm. S. Shore.....	Dresden .....	10 00
Benjamin Richards .....	Licking Reservoir .....	15 00
John A. Spurgeon .....	Licking Feeder .....	25 00
John Benadum .....	Lockville .....	5 00
J. W. Koch.....	Circleville Dam .....	15 00
Henry Laughhorn .....	Three Locks .....	10 00

In presenting this our 68th Annual Report to your Excellency, we would respectfully call your attention to the report of the Chief Engineer of the Public Works of Ohio, in relation to the water ways of the State said report being attached herewith and the statements and recommendations as made being fully endorsed by this Board.

We beg to say that the policy by the several Acts and Appropriations made by the 76th and 77th General Assemblies for the Improvement of the Northern Division of the Ohio Canal between Cleveland and Dresden, and the Miami and Erie Canal, are being closely adhered to, and the work in connection therewith is being done in a good and substantial manner, which we believe when finished, will redound to the credit of the Department and to the benefit of the commonwealth.

The Department has been greatly embarrassed in carrying on its work, on account of the scarcity and high price of labor, and in this respect have suffered alike with other improvements that are being made throughout the entire country.

It is hoped that the entire improvement as contemplated by the Appropriations made by the past Assemblies, will be entirely completed by early next fall, at which time the Department hopes to be able to prove, by the improvement itself, the wisdom for this general improvement of the canals.

We still adhere to the belief that any movement that may be on foot, looking to the sale or abandonment of the canals of the State, would be taking a step backward in the material and commercial interests, and the future prosperity and growth of the State at large.

We also call attention to the financial statement of the Secretary which accompanies our report showing the receipts and expenditures in detail, incident to the repairs and maintenance of the several canals of the State during the past fiscal year.

It was a sorrow that we had to record the death of our colleague, The Hon. Richard B. Crawford, who died at his home in Massillon, on

October 17th, 1906. Mr. Crawford was a man of high principles and earnest and honest endeavors, and as an expression of our sorrow and the great respect in which he was held, our Board and the employees of this Department adopted a resolution upon the death of Mr. Crawford, which was spread upon the minutes and an engrossed copy of which was transmitted to the family of the deceased.

We beg to acknowledge the favorable services and assistance rendered us by the Chief Engineer of the Public Works, the Assistant Engineer, Secretary, Clerk, and the other attachees of the Department and the uniformly kind and courteous treatment received from them in the discharge of our duties.

Respectfully submitted,

GEO. H. WATKINS,

W. KIRTLEY, JR.,

B. W. BALDWIN.

*Board of Public Works of Ohio.*

Columbus, Ohio, November 15th, 1906.

NOTE — While Mr. Baldwin signs this report, he did not receive his commission until the 13th day of November, 1906, two days before the end of the fiscal year.



## REPORT OF SECRETARY.

---

*To the Honorable Board of Public Works.*

GENTLEMEN:—I herewith present my report of the receipts and expenditures of your honorable Board during the fiscal year ending on the 15th day of November, 1906.

Very respectfully,

W. E. THOMPSON,

*Secretary.*



## FINANCIAL STATEMENT OF BOARD OF PUBLIC WORKS.

The amount of collections from the public works of Ohio, for the fiscal year ending November 15th, 1906, as shown by the Collectors in their weekly reports, is given in the following tables:

## MIAMI AND ERIE CANAL.

Offices.	Tolls.	Water Leases.	Pipe Permits.	Land Leases.	Totals.
Cincinnati .....	\$1,908 03	\$9,066 05	\$4,489 06	\$6,973 00	\$22,436 14
Lockland .....	638 11	.....	262 00	40 00	940 11
Middletown .....	109 92	1,524 00	891 15	3,159 50	5,684 57
Dayton .....	18 92	2,400 00	246 00	7,151 50	9,818 42
Piqua .....	114 37	2,005 00	686 00	1,066 10	3,871 47
St. Marys .....	227 00	1,347 50	1,317 70	7,526 80	10,419 00
*Delphos .....	491 60	1,142 50	530 29	118 76	2,283 15
Defiance .....	256 20	70 00	168 00	111 02	605 22
Napoleon .....	158 32	3,420 50	10 00	69 00	3,657 82
Toledo .....	115 08	2,770 00	500 50	614 35	3,999 93
Total .....	\$4,037 55	\$23,745 55	\$9,100 70	\$26,830 03	\$63,713 83

|| Oil royalty counted in land rentals, \$6,759 70.

\* Oil royalty counted in land rentals, \$28.11.

## OHIO CANAL — NORTHERN DIVISION.

Offices.	Tolls.	Water Leases.	Pipe Permits.	Land Leases.	Totals.
Cleveland .....	.....	.....	\$2,236 94	\$555 38	\$2,792 32
Akron .....	\$775 80	\$288 00	19,678 00	736 10	21,477 90
*Massillon .....	242 11	664 18	.....	2,112 00	3,018 29
Canal Dover .....	471 97	405 00	611 66	120 12	1,608 75
Roscoe .....	1,258 86	1,999 60	843 19	717 00	4,818 65
Total .....	\$2,748 74	\$3,356 78	\$23,369 79	\$4,240 60	\$33,715 91

\* Sale of land counted in land rentals, \$2,100.



## OHIO CANAL — SOUTHERN DIVISION.

Offices.	Tolls.	Water Leases.	Pipe Permits.	Land Leases.	Totals.
*Newark .....	\$10 00	\$15 00	\$1,181 00	\$2,497 73	\$3,703 73
†Carroll .....			207 00	1,257 50	1,464 50
Columbus .....			392 83	2,774 60	3,167 43
Circleville .....			220 50	298 50	519 00
Chillicothe .....	5 00	146 00	77 00	12 00	240 00
Waverly .....	53 33			39 00	92 33
Portsmouth .....				21 00	21 00
Total .....	\$68 33	\$161 00	\$2,078 33	\$6,900 33	\$9,207 99

\* Sale of land counted in land rentals, \$40.

† Sale of land counted in land rentals, \$30.

## RECAPITULATION.

## CANALS.

Offices.	Tolls.	Water Leases.	Pipe Permits.	Land Leases.	Totals.
Miami & Erie...	\$4,037 55	\$23,745 55	\$9,100 70	\$26,830 03	\$63,713 83
Ohio — N. Div. ..	2,748 74	3,356 78	23,369 79	4,240 60	33,715 91
Ohio — S. Div. ..	68 33	161 00	2,078 33	6,900 33	9,207 99
Total .....	\$6,854 62	\$27,263 33	\$34,548 82	\$37,970 96	\$106,637 73

## NOTE.

Amount received by State Treasurer from Canal Collectors and certified to Auditor of State for the fiscal year ending November 15, 1906 ..... \$98,944 11

Amount collected by Canal Collectors prior to Nov. 15, 1906, but not received by State Treasurer until after close of fiscal year ending Nov. 15, 1906..... 7,693 62

Total receipts from Canal Collectors for the fiscal year ending November 15, 1906..... \$106,637 73

NOTE:—There was sold by the Ohio Canal Commission on Feb. 12th, 1906, at public auction, in the City of Akron, a tract of land for the sum of \$1,980.00, which amount was credited to the Canal Repair Fund Northern Division Ohio Canal.

## COLLECTIONS AND APPROPRIATIONS.

The amount of revenue received from all sources for the fiscal year ending November 15th, 1906, as certified to the Board by the Auditor of State, was as follows:

## RECEIPTS.

## COLLECTIONS MIAMI AND ERIE CANAL.

Cincinnati ..—.....	\$21,085 49	
Lockland .....	972 97	
Middletown .....	5,678 04	
Dayton .....	9,803 87	
Piqua .....	4,692 73	
St. Marys .....	10,386 54	
Delphos .....	1,685 02	
Defiance .....	606 82	
Napoleon .....	3,640 01	
Toledo .....	4,144 87	
	<hr/>	\$62,696 36

## COLLECTIONS OHIO CANAL — NORTHERN DIVISION.

Cleveland .....	\$2,670 32	
Akron .....	17,798 65	
Massillon .....	774 56	
Canal Dover .....	1,606 11	
Roscoe .....	3,764 85	
	<hr/>	\$26,614 49

## COLLECTIONS OHIO CANAL — SOUTHERN DIVISION.

Newark .....	\$2,551 73	
Carroll .....	1,702 00	
Columbus .....	4,579 03	
Circleville .....	462 17	
Chillicothe .....	249 00	
Waverly .....	89 33	
	<hr/>	\$9,633 26

Total .....	\$98,944 11	
Deduct collections from public parks which is credited to the park fund	6,556 74	
	<hr/>	\$92,387 37
Add balance in treasury November 15, 1905.....	164,706 85	
	<hr/>	\$257,094 22
General appropriations.....	61,700 00	

## Special appropriations, to-wit:

Reconstruction Ohio Canal, Cleveland to Dresden.....	100,000 00
Reconstruction M. & E., Dayton to Cincinnati.....	100,000 00
Rebuilding M. & E. north of Dayton.....	50,000 00
Repairing banks Lewistown Reservoir.....	4,767 00
Investigating dynamiting cases.....	5,000 00
Building embankment at Lockbourne.....	900 00
Repairing damage by flood, M. & E. Canal.....	10,270 33
<hr/>	
Total .....	\$589,731 55



## DISBURSEMENTS.

The following checks upon the Auditor of State were issued to the several Superintendents of canal repairs and others, on account of the maintenance and repairs of canals, salaries, etc., in payment of the itemized bills filed in the office of the Auditor of State, copies of which are incorporated in this report under the head of "Abstracts of Money Paid Out," showing to whom, for what purpose and the fund from which said accounts were paid, to-wit:

## ON ACCOUNT OF THE MIAMI AND ERIE CANAL.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1905.			
Dec. 12	Chas. Cooper .....	M. and E. Canal.....	\$1,900 00
12	John O'Connor .....	M. and E. Canal.....	1,900 00
12	H. W. Meacham.....	M. and E. Canal.....	1,800 00
12	Chas. Cooper.....	Locks Cincinnati to Dayton.....	1,103 69
12	Chas. Cooper.....	Aqueducts Cincinnati to Dayton.	572 79
12	John O'Connor .....	Aqueduct Mad River.....	450 75
12	John O'Connor .....	Repairing banks Lewistown Res..	1,290 09
12	John O'Connor .....	Repairing banks Lewistown Res..	993 34
12	H. W. Meacham.....	Locks Dayton to Toledo.....	482 04
12	H. W. Meacham.....	Dynamiting cases .....	4,681 67
1906.			
Jan. 9	Chas. Cooper .....	M. and E. Canal.....	824 00
9	John O'Connor .....	M. and E. Canal.....	824 00
9	H. W. Meacham.....	M. and E. Canal.....	824 00
9	Chas. Cooper .....	Locks Cincinnati to Dayton.....	310 88
9	John O'Connor .....	Mad River Aqueduct.....	249 62
9	John O'Connor .....	Repairing banks Lewistown Res..	1,007 61
Feb. 13	Chas. Cooper .....	M. and E. Canal.....	3,900 00
13	John O'Connor .....	M. and E. Canal.....	2,200 00
13	H. W. Meacham .....	M. and E. Canal.....	3,200 00
13	Chas. Cooper .....	Locks Cincinnati to Dayton.....	323 51
13	John O'Connor .....	Repairing banks Lewistown Res..	179 18
Mch. 13	Chas. Cooper .....	M. and E. Canal.....	1,000 00
13	John O'Connor .....	M. and E. Canal.....	937 96
13	H. W. Meacham.....	M. and E. Canal.....	1,000 00
Apr. 10	Chas. Cooper .....	M. and E. Canal.....	1,085 86
10	John O'Connor .....	M. and E. Canal.....	918 86
10	H. W. Meacham.....	M. and E. Canal.....	1,319 23
10	Chas. Cooper .....	M. and E. Canal.....	1,000 00
10	John O'Connor .....	M. and E. Canal.....	1,000 00
10	H. W. Meacham.....	M. and E. Canal.....	1,000 00
10	John O'Connor .....	Rpairing banks Lewistown Res..	403 81
10	John O'Connor .....	Aqueduct Mad River.....	10 48
10	H. W. Meacham.....	Repairing banks St. Marys Res..	44 14
10	Huston & Cleveland..	Aqueduct Miami River.....	4,750 00
10	Pinkerton Nat. D. Agt.	Dynamiting cases .....	318 33
May 8	Chas. Cooper .....	M. and E. Canal.....	1,423 69
8	Chas. Cooper .....	M. and E. Canal.....	750 00
8	John O'Connor .....	M. and E. Canal.....	1,399 34
8	H. W. Meacham.....	M. and E. Canal.....	2,108 92
8	W. C. Wykoff.....	M. and E. Canal.....	41 00
8	E. E. Booton.....	M. and E. Canal.....	41 00

ON ACCOUNT OF THE MIAMI AND ERIE CANAL — Concluded.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
8	C. W. Diehl.....	M. and E. Canal.....	37 80
8	John O'Connor .....	Repairing banks Lewistown Res..	879 75
June 12	Chas. Cooper .....	M. and E. Canal.....	7,000 00
12	Chas. Cooper .....	M. and E. Canal.....	1,650 00
12	John O'Connor .....	M. and E. Canal.....	3,500 00
12	John O'Connor .....	M. and E. Canal.....	650 00
12	H. W. Meacham.....	M. and E. Canal.....	2,211 88
12	H. W. Meacham.....	M. and E. Canal.....	1,288 12
12	H. W. Meacham.....	M. and E. Canal.....	650 00
12	W. C. Wikoff.....	M. and E. Canal.....	125 00
12	E. E. Booton.....	M. and E. Canal.....	125 00
12	C. W. Diehl.....	M. and E. Canal.....	115 00
12	F. W. Schaub.....	M. and E. Canal.....	15 00
12	E. E. Booton.....	M. and E. Canal.....	9 40
12	John O'Connor .....	Repairing banks Lewistown Res..	13 22
12	John O'Connor .....	Aqueduct Miami River.....	127 25
12	Huston & Cleveland..	Aqueduct Miami River.....	2,500 00
July 10	Chas. Cooper .....	M. and E. Canal.....	600 00
10	John O'Connor .....	M. and E. Canal.....	600 00
10	John O'Connor .....	Aqueduct Miami River.....	372 75
10	H. W. Meacham.....	M. and E. Canal.....	600 00
Aug. 14	Chas. Cooper.....	M. and E. Canal.....	200 00
14	John O'Connor .....	M. and E. Canal.....	250 00
14	H. W. Meacham.....	M. and E. Canal.....	200 00
14	Huston & Cleveland..	Aqueduct Miami River.....	1,500 00
Sept. 14	John O'Connor .....	M. and E. Canal.....	400 00
14	John O'Connor .....	M. and E. Canal.....	200 00
14	Chas. Cooper .....	M. and E. Canal.....	600 00
14	H. W. Meacham.....	M. and E. Canal.....	600 00
Oct. 8	Chas. Cooper .....	M. and E. Canal.....	600 00
8	John O'Connor .....	M. and E. Canal.....	600 00
8	H. W. Meacham.....	M. and E. Canal.....	600 00
Nov. 13	Chas. Cooper .....	M. and E. Canal.....	4,000 00
13	John O'Connor .....	M. and E. Canal.....	4,000 00
13	H. W. Meacham.....	M. and E. Canal.....	4,000 00
		Total .....	\$90,389 96

RECAPITULATION.

Chas. Cooper, Supt.....	\$28,844 42
John O'Connor, Supt.....	25,358 01
H. W. Meacham, Supt.....	26,610 00
Huston & Cleveland.....	8,750 00
Pinkerton Nat'l Detective Agency.....	318 33
Wheeler C. Wikoff.....	166 00
E. E. Booton.....	175 40
C. W. Diehl.....	152 80
F W Schaub.....	15 00
Total .....	\$90,389 96

ON ACCOUNT OF RECONSTRUCTION MIAMI AND ERIE CANAL BETWEEN DAYTON AND CINCINNATI AS PROVIDED FOR BY THE 77TH GENERAL ASSEMBLY.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
May 8	James C. Wonders....	Reconstruction M. & E. Dayton to Cincinnati .....	\$584 64
June 12	James C. Wonders....	Reconstruction M. & E. Dayton to Cincinnati .....	1,272 93
July 10	James C. Wonders....	Reconstruction M. & E. Dayton to Cincinnati .....	1,433 21
Aug. 14	James C. Wonders....	Reconstruction M. & E. Dayton to Cincinnati .....	1,595 13
Sept. 14	James C. Wonders....	Reconstruction M. & E. Dayton to Cincinnati .....	5,920 60
Oct. 9	James C. Wonders....	Reconstruction M. & E. Dayton to Cincinnati .....	10,440 18
Nov. 13	James C. Wonders....	Reconstruction M. & E. Dayton to Cincinnati .....	9,597 60
13	Capitol Construction Co .....	Reconstruction M. & E. Dayton to Cincinnati .....	4,000 00
		Total .....	\$34,844 29

RECAPITULATION.

James C. Wonders, reconstruction M. & E., Dayton to Cinti.....	\$30,844 29
Capitol Construction Co., reconstruction M. & E., Dayton to Cinti....	4,000 00
Total .....	\$34,844 29



ON ACCOUNT OF REBUILDING MIAMI AND ERIE CANAL NORTH OF DAYTON, AS PROVIDED FOR BY THE 77TH GENERAL ASSEMBLY.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
June 12	James C. Wonders....	Rebuilding M. & E. North of Dayton .....	\$119 75
July 10	James C. Wonders....	Rebuilding M. & E. North of Dayton .....	89 65
Aug. 14	James C. Wonders....	Rebuilding M. & E. North of Dayton .....	127 87
Sept. 14	James C. Wonders....	Rebuilding M. & E. North of Dayton .....	382 04
Oct. 9	James C. Wonders....	Rebuilding M. & E. North of Dayton .....	4,976 93
Nov. 13	James C. Wonders....	Rebuilding M. & E. North of Dayton .....	5,406 37
		Total .....	\$11,102 61

RECAPITULATION.

James C. Wonders, rebuilding M. & E, Canal north of Dayton..... \$11,102 61

ON ACCOUNT OF THE NORTHERN DIVISION OF THE OHIO CANAL.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1905.			
Dec. 12	Chas. Hatch .....	Northern Division Ohio Canal...	\$2,017 68
12	Chas. H. Geidel.....	Northern Division Ohio Canal...	1,481 07
1906.			
Jan. 9	Chas. Hatch .....	Northern Division Ohio Canal...	2,672 85
9	Chas. H. Geidel.....	Northern Division Ohio Canal...	666 49
Feb. 13	Chas. Hatch .....	Northern Division Ohio Canal...	1,345 99
13	Chas. H. Geidel.....	Northern Division Ohio Canal...	888 22
Mar. 13	Chas. Hatch .....	Northern Division Ohio Canal...	1,126 78
13	Chas. H. Geidel.....	Northern Division Ohio Canal...	804 23
Apr. 10	Chas. Hatch .....	Northern Division Ohio Canal...	3,028 41
10	Chas. H. Geidel.....	Northern Division Ohio Canal...	791 80
May 8	Chas. Hatch .....	Northern Division Ohio Canal...	1,975 60
8	Chas. H. Geidel.....	Northern Division Ohio Canal...	1,555 14
June 12	Chas. Hatch .....	Northern Division Ohio Canal...	1,655 34
12	Chas. H. Geidel.....	Northern Division Ohio Canal...	1,797 53
July 10	Chas. Hatch .....	Northern Division Ohio Canal...	1,746 70
10	Chas. H. Geidel.....	Northern Division Ohio Canal...	1,521 65
10	W. C. Wikoff.....	Northern Division Ohio Canal...	125 00
10	E. E. Booton.....	Northern Division Ohio Canal...	125 00
10	Chas. W. Diehl.....	Northern Division Ohio Canal...	115 00

## AN ACCOUNT OF THE NORTHERN DIVISION OF THE OHIO CANAL — Concluded.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
10	F. W. Schaub.....	Northern Division Ohio Canal...	10 00
10	W. C. Wikoff.....	Northern Division Ohio Canal...	9 10
10	Cols. Citizens Tel. Co.	Northern Division Ohio Canal...	10 00
Aug. 14	Chas. Hatch .....	Northern Division Ohio Canal...	2,121 75
14	Chas. H. Geidel.....	Northern Division Ohio Canal...	1,645 00
14	Chas. H. Geidel.....	Northern Division Ohio Canal...	1,236 94
14	W. C. Wikoff.....	Northern Division Ohio Canal...	153 70
14	E. E. Booton.....	Northern Division Ohio Canal...	153 70
14	Chas. W. Diehl.....	Northern Division Ohio Canal...	141 46
14	Franklin Toilet Co..	Northern Division Ohio Canal...	3 00
14	E. H. Sell & Co.....	Northern Division Ohio Canal...	4 50
14	F. W. Schaub.....	Northern Division Ohio Canal...	10 00
14	W. C. Wikoff.....	Northern Division Ohio Canal...	13 35
14	C. L. Hughes.....	Northern Division Ohio Canal...	11 50
14	E. E. Booton.....	Northern Division Ohio Canal...	32 80
14	Cent. Union Tel Co..	Northern Division Ohio Canal...	4 50
Sept. 14	Chas. Hatch .....	Northern Division Ohio Canal...	1,723 14
14	Chas. H. Geidel.....	Northern Division Ohio Canal...	1,240 01
14	E. E. Booton.....	Northern Division Ohio Canal...	125 00
14	C. W. Diehl.....	Northern Division Ohio Canal...	125 00
14	A. H. Sawyer.....	Northern Division Ohio Canal...	125 00
14	E. E. Booton.....	Northern Division Ohio Canal...	13 97
14	F. W. Schaub.....	Northern Division Ohio Canal...	10 00
Oct. 9	Chas. Hatch .....	Northern Division Ohio Canal...	1,796 47
9	Chas. H. Geidel.....	Northern Division Ohio Canal...	1,337 88
Nov. 13	Chas. Hatch .....	Northern Division Ohio Canal...	1,783 61
13	Chas. H. Geidel.....	Northern Division Ohio Canal...	1,207 36
		Total .....	\$40,489 22

## RECAPITULATION.

Chas. Hatch, Supt .....	\$22,994.32
Chas. H. Geidel, Supt.....	16,173 32
Wheeler C. Wikoff.....	301 15
E. E. Booton.....	450 47
C. W. Diehl.....	381 47
F. W. Schaub.....	30 00
C. L. Hughes.....	11 50
Franklin Toilet Supply Company.....	3 00
Central Union Telephone Co.....	4 50
A. H. Sawyer.....	125 00
E. H. Sell & Co.....	4 50
Columbus Citizens Telephone Co.....	10 00
Total .....	\$40,489 22

ON ACCOUNT OF THE SOUTHERN DIVISION OF THE OHIO CANAL.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1905.			
Dec. 12	H. R. Morris.....	Southern Division Ohio Canal....	\$707 76
12	H. R. Morris.....	Southern Division Ohio Canal....	878 71
1906.			
Jan. 9	H. R. Morris.....	Southern Division Ohio Canal....	1,152 49
Feb. 13	H. R. Morris.....	Southern Division Ohio Canal....	896 73
13	H. R. Morris.....	Southern Division Ohio Canal....	21 29
Mar. 13	H. R. Morris.....	Southern Division Ohio Canal....	831 23
Apr. 10	H. R. Morris.....	Southern Division Ohio Canal....	883 01
May 8	H. R. Morris.....	Southern Division Ohio Canal....	2,636 08
June 12	H. R. Morris.....	Southern Division Ohio Canal....	4,047 23
July 10	H. R. Morris.....	Southern Division Ohio Canal....	3,799 72
Aug. 14	H. R. Morris.....	Southern Division Ohio Canal....	2,550 75
Sept. 14	H. R. Morris.....	Southern Division Ohio Canal....	2,187 40
Oct. 9	H. R. Morris.....	Southern Division Ohio Canal....	1,072 51
9	E. E. Booton.....	Southern Division Ohio Canal....	15 60
9	F. W. Schaub.....	Southern Division Ohio Canal....	10 00
9	A. H. Sawyer.....	Southern Division Ohio Canal....	125 00
9	C. W. Diehl.....	Southern Division Ohio Canal....	125 00
9	E. E. Booton.....	Southern Division Ohio Canal....	125 00
Nov. 13	H. R. Mooris.....	Southern Division Ohio Canal....	985 11
13	E. E. Booton.....	Southern Division Ohio Canal....	125 00
13	Chas. W. Diehl.....	Southern Division Ohio Canal....	125 00
13	Franklin Toilet Co....	Southern Division Ohio Canal....	3 00
13	Crystal Ice Co.....	Southern Division Ohio Canal....	10 00
13	E. E. Booton.....	Southern Division Ohio Canal....	11 60
13	F. W. Schaub.....	Southern Division Ohio Canal....	10 00
		Total .....	\$23,335 22

RECAPITULATION.

H. R. Morris, Southern Division Ohio Canal.....	\$22,650 02
E. E. Booton, Southern Division Ohio Canal.....	277 20
C. W. Diehl, Southern Division Ohio Canal.....	250 00
A. H. Sawyer, Southern Division Ohio Canal.....	125 00
F. W. Schaub, Southern Division Ohio Canal.....	20 00
Franklin Toilet Sup. Co., Southern Division Ohio Canal.....	3 00
The Crystal Ice Co., Southern Division Ohio Canal.....	10 00
Total .....	\$23,335 22



ON ACCOUNT OF RECONSTRUCTION NORTHERN DIVISION OHIO  
AND ERIE CANAL BETWEEN CLEVELAND AND DRESDEN, AS  
PROVIDED BY THE 77TH GENERAL ASSEMBLY.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
June 12	John A. Hanlon.....	Reconstruction Ohio Canal.....	\$5,143 57
July 10	John A. Hanlon.....	Reconstruction Ohio Canal.....	4,233 81
Aug. 14	John A. Hanlon.....	Reconstruction Ohio Canal.....	3,822 89
Sept. 14	John A. Hanlon.....	Reconstruction Ohio Canal.....	3,427 19
Oct. 9	John A. Hanlon.....	Reconstruction Ohio Canal.....	14,421 29
Nov. 13	John A. Hanlon.....	Reconstruction Ohio Canal.....	16,731 30
		Total .....	\$47,780 05

RECAPITULATION.

John A. Hanlon, reconstruction Ohio Canal north of Dresden..... \$47,780 05

ON ACCOUNT OF IMPROVEMENTS OF NORTHERN DIVISION OF THE  
OHIO CANAL IN ACCORDANCE WITH SENATE BILL NO. 258.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1905.			
Dec. 12	Atlantic Foundry Co..	Improvem't Nor. Div. Ohio Canal.	\$307 63
12	Cleveland B. Sup. Co.	Improvem't Nor. Div. Ohio Canal.	961 00
12	G. W. Carmichael & Co .....	Improvem't Nor. Div. Ohio Canal.	1,117 78
12	G. W. Carmichael & Co .....	Improvem't Nor. Div. Ohio Canal.	1,462 25
12	McGarry & McGowan.	Improvem't Nor. Div. Ohio Canal.	1,379 26
12	McCourt & Ely.....	Improvem't Nor. Div. Ohio Canal.	4,653 06
12	P. T. McCourt.....	Improvem't Nor. Div. Ohio Canal.	3,314 20
12	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	3,629 67
1906.			
Jan. 9	Atlantic Foundry Co.	Improvem't Nor. Div. Ohio Canal.	234 26
9	Geo. W. Carmichael & Co .....	Improvem't Nor. Div. Ohio Canal.	1,604 97
9	McGarry & McGowan.	Improvem't Nor. Div. Ohio Canal.	3,683 88
9	P. T. McCourt.....	Improvem't Nor. Div. Ohio Canal.	471 29
9	McCourt & Ely.....	Improvem't Nor. Div. Ohio Canal.	1,359 22
9	Geo. W. Carmichael & Co.....	Improvem't Nor. Div. Ohio Canal.	408 68
9	Alexander Adamson ..	Improvem't Nor. Div. Ohio Canal.	160 73
9	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	2,810 67
Feb. 13	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	4,330 04
Mar. 13	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	1,350 52
13	McGarry & McGowan.	Improvem't Nor. Div. Ohio Canal.	3,000 00
13	P. T. McCourt.....	Improvem't Nor. Div. Ohio Canal.	1,266 25
13	McCourt & Ely.....	Improvem't Nor. Div. Ohio Canal.	2,205 32
13	Geo. W. Carmichael & Co .....	Improvem't Nor. Div. Ohio Canal.	139 26
13	Atlantic Foundry Co..	Improvem't Nor. Div. Ohio Canal.	109 80
13	Geo. W. Carmichael & Co .....	Improvem't Nor. Div. Ohio Canal.	1,674 16
13	Alexander Adamson ..	Improvem't Nor. Div. Ohio Canal.	499 43
13	The King Bridge Co..	Improvem't Nor. Div. Ohio Canal.	2,500 00
13	Clifton Bros .....	Improvem't Nor. Div. Ohio Canal.	960 00
Apr. 10	The King Bridge Co..	Improvem't Nor. Div. Ohio Canal.	1,500 00
10	D. E. Sullivan & Son.	Improvem't Nor. Div. Ohio Canal.	621 00
10	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	99 00
10	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	963 39
May 8	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	2,070 51
8	Alexander Adamson ..	Improvem't Nor. Div. Ohio Canal.	123 30
8	Atlantic Foundry Co..	Improvem't Nor. Div. Ohio Canal.	127 00
8	The King Bridge Co..	Improvem't Nor. Div. Ohio Canal.	1,136 83
8	McGarry & McGowan.	Improvem't Nor. Div. Ohio Canal.	3,001 40
8	A. A. Likens.....	Improvem't Nor. Div. Ohio Canal.	861 98
8	Clifton Bros .....	Improvem't Nor. Div. Ohio Canal.	453 00
8	D. E. Sullivan & Son.	Improvem't Nor. Div. Ohio Canal.	1,302 35
8	P. T. McCourt.....	Improvem't Nor. Div. Ohio Canal.	2,729 63
8	McCourt & Ely.....	Improvem't Nor. Div. Ohio Canal.	980 00
June 12	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	2,780 97
12	The King Bridge Co..	Improvem't Nor. Div. Ohio Canal.	500 00
12	P. T. McCourt.....	Improvem't Nor. Div. Ohio Canal.	2,129 05
12	G. W. Carmichael....	Improvem't Nor. Div. Ohio Canal.	1,892 55
12	McGarry & McGowan.	Improvem't Nor. Div. Ohio Canal.	2,539 87
12	A. A. Likens.....	Improvem't Nor. Div. Ohio Canal.	1,602 45
12	D. E. Sullivan & Son..	Improvem't Nor. Div. Ohio Canal.	2,457 74
July 10	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	2,605 04

ON ACCOUNT OF IMPROVEMENTS OF NORTHERN DIVISION OF THE OHIO CANAL —  
Concluded.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
10	D. E. Sullivan & Son..	Improvem't Nor. Div. Ohio Canal.	1,470 86
10	A. A. Likens.....	Improvem't Nor. Div. Ohio Canal.	2,042 01
10	Alexander Adamson ..	Improvem't Nor. Div. Ohio Canal.	74 34
Aug. 14	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	2,796 57
14	A. A. Likens.....	Improvem't Nor. Div. Ohio Canal.	1,222 24
14	D. E. Sullivan.....	Improvem't Nor. Div. Ohio Canal.	1,653 35
14	D. E. Sullivan.....	Improvem't Nor. Div. Ohio Canal.	500 00
Sept. 14	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	2,228 47
14	P. T. McCourt.....	Improvem't Nor. Div. Ohio Canal.	2,500 00
14	McGarry & McGowan.	Improvem't Nor. Div. Ohio Canal.	1,000 00
14	D. E. Sullivan & Son..	Improvem't Nor. Div. Ohio Canal.	500 00
14	A. A. Likens.....	Improvem't Nor. Div. Ohio Canal.	764 95
14	Cleveland B. Sup. Co..	Improvem't Nor. Div. Ohio Canal.	500 00
Oct. 9	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	1,877 94
9	D. E. Sullivan & Son.	Improvem't Nor. Div. Ohio Canal.	500 00
9	A. A. Likens.....	Improvem't Nor. Div. Ohio Canal.	1,259 88
9	M. J. Walsh.....	Improvem't Nor. Div. Ohio Canal.	190 50
9	D. E. Sullivan & Son.	Improvem't Nor. Div. Ohio Canal.	500 00
Nov. 13	Chas. Hatch .....	Improvem't Nor. Div. Ohio Canal.	2,268 04
13	D. E. Sullivan & Son.	Improvem't Nor. Div. Ohio Canal.	1,314 62
13	D. E. Sullivan & Son.	Improvem't Nor. Div. Ohio Canal.	800 00
13	P. T. McCourt.....	Improvem't Nor. Div. Ohio Canal.	1,000 00
13	McGarry & McGowan.	Improvem't Nor. Div. Ohio Canal.	500 00
13	Cleveland B. Sup. Co.	Improvem't Nor. Div. Ohio Canal.	135 64
13	A. A. Likens.....	Improvem't Nor. Div. Ohio Canal.	741 72
13	D. E. Sullivan & Son.	Improvem't Nor. Div. Ohio Canal.	181 26
Total .....			\$106,592 78

RECAPITULATION.

Chas. Hatch, Supt.....	\$29,810 83
The Cleveland Builders Supply Co.....	1,596 64
G. W. Carmichael & Co.....	8,299 65
McGarry & McGowan.....	15,104 41
McCourt & Ely.....	9,197 60
P. T. McCourt.....	13,410 42
The Atlantic Foundry Company.....	778 69
Alexander Adamson .....	857 80
The King Bridge Company.....	5,636 83
Clifton Bros. ....	1,413 00
D. E. Sullivan & Son.....	11,801 18
A. A. Likens .....	8,495 23
M. J. Walsh .....	190 50
Total .....	\$106,592 78



CHECKS ISSUED BY THE PRESIDENT OF THE BOARD OF PUBLIC  
WORKS ON FUNDS APPROPRIATED ANNUALLY FOR THE PAY-  
MENT OF OFFICERS' SALARIES, CONTINGENT EXPENSES, ETC.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1905.			
Dec. 12	Wm. Kirtley, Jr.....	Member's salaries .....	\$66 66
	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	125 00
	Geo. H. Watkins.....	Member's salaries as Supts.....	125 00
	R. B. Crawford.....	Member's salaries as Supts.....	125 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. H. McClintock....	Secretary's salary .....	125 00
	R. Sullivant .....	Clerk's salary .....	58 33
1906.			
Jan. 9	Wm. Kirtley, Jr.....	Member's salaries .....	66 66
	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	125 00
	Geo. H. Watkins.....	Member's salaries as Supts.....	125 00
	R. B. Crawford.....	Member's salaries as Supts.....	125 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. H. McClintock....	Secretary's salary .....	125 00
	R. Sullivant .....	Clerk's salary .....	58 33
Feb. 13	Wm. Kirtley, Jr.....	Member's salaries .....	66 74
	Geo. H. Watkins.....	Member's salaries .....	66 74
	R. B. Crawford.....	Member's salaries .....	66 74
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	125 00
	Geo. H. Watkins.....	Member's salaries as Supts.....	125 00
	R. B. Crawford.....	Member's salaries as Supts.....	125 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 37
	W. H. McClintock....	Secretary's salary .....	125 00
	R. Sullivant .....	Clerk's salary .....	58 37
Mar. 13	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries .....	66 66
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. H. McClintock....	Secretary's salary .....	125 00
	R. Sullivant .....	Clerk's salary .....	58 33
	F. W. Schaub.....	Contingent expenses (salary)....	30 00
	F. W. Schaub.....	Contingent expenses (stamps)....	10 00
	Remington T. Co.....	Contingent expenses .....	75
Apr. 10	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66

## CHECKS ISSUED BY THE PRESIDENT OF THE BOARD OF PUBLIC WORKS — Continued.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
	Wm. Kirtley, Jr.....	Member's salaries .....	66 66
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. H. McClintock....	Secretary's salary .....	62 50
	W. E. Thompson.....	Secretary's salary .....	62 50
	R. Sullivant .....	Clerk's salary .....	58 33
	F. W. Schaub.....	Contingent expenses (salary)....	30 00
	F. W. Schaub.....	Contingent expenses .....	8 00
	F. W. Schaub.....	Contingent expenses .....	2 00
May 8	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries .....	66 66
	Geo. H. Watkins.....	Member's salaries as Supts.....	375 00
	R. B. Crawford.....	Member's salaries as Supts.....	375 00
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	375 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. E. Thompson.....	Secretary's salary .....	125 00
	R. Sullivant .....	Clerk's salary .....	58 33
	W. U. Tel Co.....	Contingent expenses .....	22 49
	Cent. Union Tel.....	Contingent expenses .....	45 80
	W. U. Tel Co.....	Contingent expenses .....	51
	Rem. Typewriter Co..	Contingent expenses .....	75
	W. H. Anderson Co..	Contingent expenses .....	12 00
	The C. P. & E. Co....	Contingent expenses .....	1 45
	The Crystal Ice Co...	Contingent expenses .....	15 43
	Weiman Mach. Works.	Contingent expenses .....	1 75
	Col. Citizens Tel. Co	Contingent expenses .....	10 00
	Bucher Eng. Co.....	Contingent expenses .....	2 02
	The Terry Eng. Co...	Contingent expenses .....	80
	A. H. Smythe.....	Contingent expenses .....	2 00
	U. S. Telephone Co...	Contingent expenses .....	11 80
	Fred J. Heer.....	Contingent expenses .....	16 00
	Union Nat'l Bank.....	Contingent expenses .....	10 00
	D. C. Day.....	Contingent expenses .....	17 00
	U. S. Express Co.....	Contingent expenses .....	2 55
	Wells Fargo Exp. Co..	Contingent expenses .....	1 45
	Adams Express Co....	Contingent expenses .....	90
	F. W. Schaub.....	Contingent expenses (salary)....	30 00
	F. W. Schaub.....	Contingent expenses (stamps)....	10 00
	U. S. Telephone Co...	Contingent expenses .....	2 30
	E. E. Booton.....	Contingent expenses .....	16 42
June 12	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries .....	66 66
	Geo. H. Watkins.....	Member's salaries as Supts.....	125 00
	R. B. Crawford.....	Member's salaries as Supts.....	125 00
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	125 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00



## CHECKS ISSUED BY THE PRESIDENT OF THE BOARD OF PUBLIC WORKS — Continued.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. E. Thompson.....	Secretary's salary .....	125 00
	R. Sullivant .....	Clerk's salary .....	58 33
	F. W. Schaub.....	Contingent expenses (salary)....	30 00
	W. U. Tel Co.....	Contingent expenses .....	27 62
	Am. Tel Co.....	Contingent expenses .....	75
	American Express Co.	Contingent expenses .....	35
	J. B. Schroeder & Co..	Contingent expenses (key).....	25
	F. W. Schaub.....	Contingent expenses (stamps)....	10 00
	Col. Citizens' Tel Co..	Contingent expenses .....	5 05
	Bertha A. Young.....	Contingent expenses .....	4 50
July 10	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries .....	66 66
	Geo. H. Watkins.....	Member's salaries as Supts.....	125 00
	R. B. Crawford.....	Member's salaries as Supts.....	125 00
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	125 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. E. Thompson.....	Secretary's salary .....	125 00
	R. Sullivant .....	Clerk's salary .....	58 33
	F. W. Schaub.....	Contingent expenses (salary)....	30 00
	Margaret Martin .....	Contingent expenses .....	2 55
	F. W. Schaub.....	Contingent expenses .....	12 00
	W. U. Tel. Co.....	Contingent expenses .....	20
	Cent. Union Tel Co..	Contingent expenses .....	7 50
	Cent. Union Tel Co..	Contingent expenses .....	1 90
	F. W. Schaub.....	Contingent expenses .....	20 00
	Adams Express Co....	Contingent expenses .....	50
	Samuel Bachtell .....	Contingent expenses .....	2 47
	Herman Borchers ....	Contingent expenses .....	20 00
	Col. Citizens Tel. Co.	Contingent expenses .....	10 00
	U. S. Tel. Co.....	Contingent expenses .....	5 55
	F. W. Schaub.....	Contingent expenses (stamps)....	5 00
	Bertha A. Young.....	Contingent expenses .....	2 50
Aug. 14	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries .....	66 66
	Geo. H. Watkins.....	Member's salaries as Supts.....	125 00
	R. B. Crawford.....	Member's salaries as Supts.....	125 00
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	125 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. E. Thompson.....	Secretary's salary .....	125 00
	Flora M. Sparrow....	Clerk's salary .....	58 33
	F. W. Schaub.....	Contingent expenses (salary)....	30 00
	U. S. Tel. Co.....	Contingent expenses .....	3 80
	W. U. Tel. Co.....	Contingent expenses .....	18 23
	Central Union Tel. Co.	Contingent expenses .....	4 10
	Cherrington P. & E. Co .....	Contingent expenses .....	1 20
	American Express Co.	Contingent expenses .....	35

## CHECKS ISSUED BY THE PRESIDENT OF THE BOARD OF PUBLIC WORKS — Continued.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
	Adams Express Co...	Contingent expenses .....	30
	Samuel Bachtell .....	Contingent expenses .....	60
	Rem. Typewriter Co..	Contingent expenses .....	40
	Chas. W. Diehl.....	Contingent expenses (stamps)....	10 00
	Chas. W. Diehl.....	Contingent expenses (stamps)....	5 00
Sept. 14	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries .....	66 66
	Geo. H. Watkins.....	Member's salaries as Supts.....	125 00
	R. B. Crawford.....	Member's salaries as Supts.....	125 00
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	125 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. E. Thompson.....	Secretary's salary .....	125 00
	Flora M. Sparrow....	Clerk's salary .....	58 33
	F. W. Schaub.....	Contingent expenses (salary)....	30 00
	Geo. C. Mustain.....	Contingent expenses .....	5 00
	F. W. Schaub.....	Contingent expenses (stamps)....	10 00
	W. U. Tel. Co.....	Contingent expenses .....	1 08
	Cent. U. Tel. Co.....	Contingent expenses .....	4 05
	Cols. Hardware Co...	Contingent expenses .....	1 30
	Smith & Isennagle....	Contingent expenses .....	6 80
	Adams Ex. Co.....	Contingent expenses .....	30
	W. U. Tel. Co.....	Contingent expenses .....	7 27
	U. S. Tel. Co.....	Contingent expenses .....	1 30
	F. W. Schaub.....	Contingent expenses .....	6 50
	Chas. W. Diehl.....	Contingent expenses .....	17 50
	Samuel Bachtell.....	Contingent expenses .....	1 25
	Cent. Union Tel. Co..	Contingent expenses .....	1 20
Oct. 9	Geo. H. Watkins.....	Member's salaries .....	66 66
	R. B. Crawford.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries .....	66 66
	Geo. H. Watkins.....	Member's salaries as Supts.....	125 00
	R. B. Crawford.....	Member's salaries as Supts.....	125 00
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	125 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	R. B. Crawford.....	Member's traveling expenses.....	50 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell .....	Engineer's salaries .....	133 33
	W. E. Thompson.....	Secretary's salary .....	125 00
	Flora M. Sparrow....	Clerk's salary .....	58 33
	F. W. Schaub.....	Contingent expenses (salary)....	30 00
	F. W. Schaub.....	Contingent expenses (stamps)....	10 00
	J. L. Trauger Co.....	Contingent expenses .....	75
	Rem. Typewriter Co..	Contingent expenses .....	75
	Columbus Ice Co.....	Contingent expenses .....	7 70
	Cent. Union Tel Co...	Contingent expenses .....	16 50
	Chas. W. Diehl.....	Contingent expenses .....	13 30
	Adams Express Co...	Contingent expenses .....	90
	Cols. Citizens Tel Co.	Contingent expenses .....	10 00
	P. O. Box Rent.....	Contingent expenses .....	2 00
	Chas. W. Diehl.....	Contingent expenses (stamps)....	10 00
Nov. 13	Geo. H. Watkins.....	Member's salaries .....	66 66
	Wm. Kirtley, Jr.....	Member's salaries .....	66 66



## CHECKS ISSUED BY THE PRESIDENT OF THE BOARD OF PUBLIC WORKS — Concluded.

Date.	To Whom Issued.	Name of Appropriation.	Amount.
1906.			
	Geo. H. Watkins.....	Member's salaries as Supts.....	125 00
	Wm. Kirtley, Jr.....	Member's salaries as Supts.....	125 00
	Geo. H. Watkins.....	Member's traveling expenses.....	50 00
	Wm. Kirtley, Jr.....	Member's traveling expenses.....	50 00
	Chas. E. Perkins.....	Engineer's salaries .....	250 00
	Samuel Bachtell.....	Engineer's salaries .....	133 33
	W. E. Thompson.....	Secretary's salary .....	125 00
	Flora M. Sparrow.....	Clerk's salary .....	58 33
	F. W. Schaub.....	Contingent expenses (salary)....	30 00
	Crystal Ice Co.....	Contingent expenses .....	11 66
	W. U. Tel. Co.....	Contingent expenses .....	16 67
	Adams Express Co....	Contingent expenses .....	1 05
	Cent. Union Tel Co..	Contingent expenses .....	4 40
	F. W. Schaub.....	Contingent expenses .....	7 00
	Chas. W. Diehl.....	Contingent expenses .....	5 00
	U. S. Express Co.....	Contingent expenses .....	85
	U. S. Tel. Co.....	Contingent expenses .....	4 70
	Columbus Ice Co.....	Contingent expenses .....	2 90
	American Express Co.	Contingent expenses .....	25
	Postal Tel. Cable Co..	Contingent expenses .....	35
	F. W. Schaub.....	Contingent expenses .....	10 00
		Total .....	\$16,135 46

## RECAPITULATION.

Geo. H. Watkins, salary and traveling expenses.....	\$2,900 00
Wm. Kirtley, Jr., salary and traveling expenses.....	2,900 00
Richard B. Crawford, salary and traveling salesman.....	2,658 34
Chas. E. Perkins salary as Engineer.....	3,000 00
Samuel Bachtell, salary as Asst. Engineer and expenses.....	1,604 32
W. H. McClintock, salary as Secretary.....	562 50
W. E. Thompson, salary as Secretary.....	937 50
R. Sullivant, salary as Clerk.....	466 68
Flora M. Sparrow, salary as Clerk.....	233 32
F. W. Schaub, salary as Messenger, contingent.....	390 50
E. E. Booton, expenses, contingent.....	16 42
Margaret Martin, contingent, service.....	2 55
Central Union Telephone Co., contingent, service.....	44 65
Herman Borchers, contingent, service.....	20 00
Columbus Ice Co., contingent, supplies (ice).....	10 60
Postal Telegraph-Cable Co., contingent, service.....	35
Columbus Hardware Company, contingent, supplies.....	1 30
J. L. Trauger & Co., contingent, service.....	75
Weiman Machine Works, contingent, service.....	1 75
Terry Engraving Co., contingent, service.....	80
Bucher Engraving Co., contingent, service.....	2 02
Union National Bank, contingent, service.....	10 00
D. C. Day, contingent, service.....	17 00

American Express Co., contingent service.....	95
Adams Express Co., contingent, service.....	3 95
Bertha Young, contingent, service.....	7 00
Wells Fargo Express Co., contingent, service.....	1 45
United States Express Co., contingent, service.....	3 40
J. S. Schroder & Co., contingent, service .....	25
Chas. W. Diehl, contingent, supplies and expenses.....	60 80
The Crystal Ice Co., contingent, supplies.....	27 09
A. H. Smythe, contingent, supplies.....	2 00
Columbus Citizens Telephone Co., contingent, service.....	35 05
W. H. Anderson & Co., contingent, supplies.....	12 00
Cherrington Printing & Engraving Co., contingent, supplies.....	2 65
American Telephone Co.....	75
Post Office box rent, contingent.....	2 00
United States Telephone Co., contingent, service.....	75 25
Fred J. Heer, contingent, supplies.....	16 00
Remington Typewriter Co., contingent, supplies.....	2 65
Western Union Telegraph Co., contingent, service.....	94 07
Smith & Isennagle, contingent, supplies.....	6 80
Total .....	\$16,135 46

The foregoing checks are charged to the following accounts:

Miami & Erie Canal.....	\$90,389 96
Miami & Erie Canal, reconstruction Cincinnati to Dayton.....	34,844 29
Miami & Erie Canal, rebuilding north of Dayton.....	11,102 61
Ohio Canal, Northern Division.....	40,489 22
Ohio Canal, Southern Division.....	23,335 22
Ohio Canal, improvement Northern Division.....	106,592 78
Ohio Canal, reconstruction Cleveland to Dresden.....	47,780 05
Members' salaries .....	2,333 34
Members' salaries as Superintendents.....	4,375 00
Members' traveling expenses.....	1,750 00
Engineers' salaries .....	4,600 00
Secretary's salary .....	1,500 00
Clerk's salary .....	700 00
Contingent expenses .....	877 12
Total .....	\$370,669 59
Balance on hand November 15, 1906.....	219,061 96
Grand total .....	\$589,731 55

The balance in the different funds on November 15th, 1906, is as follows:

Miami & Erie Canal.....	\$261 86
Ohio Canal, Northern Division.....	19,579 86
Ohio Canal, Southern Division.....	7,931 84
Members' salaries .....	666 84
Members' salaries as Superintendents.....	1,250 00
Members' traveling expenses.....	500 00
Engineer's salaries .....	1,150 03

Secretary's salary .....	375 00
Clerk's salary .....	175 03
Contingent expenses .....	322 96
Ohio Canal, improvement Northern Division.....	19,555 16
Ohio Canal, reconstruction Cleveland to Dresden.....	52,219 95
Miami & Erie Canal, reconstruction Cinti. to Dayton.....	65,155 71
Miami & Erie Canal, rebuilding north of Dayton.....	38,897 39
Repairing aqueduct over Miami River.....	750 00
Repairing damage by floods, M. & E. Canal.....	10,270 33
<hr/>	
Total .....	\$219,061 96



TABLE SHOWING THE EXPENDITURES EACH YEAR FOR SUPERINTENDENCE, REPAIRS AND COST OF COLLECTION ON THE OHIO CANALS, FROM 1827 TO 1906, INCLUSIVE.

Year.	Ohio Canal.	Miami and Erie Canal.	Hocking Canal.	Walhonding Canal.	Total on all the Canals.
1827 .....	\$700 00	.....	.....	.....	\$700 00
1828 .....	900 00	.....	.....	.....	900 00
1829 .....	1,100 00	\$11,529 59	.....	.....	12,629 59
1830 .....	1,300 00	7,138 05	.....	.....	8,438 05
1831 .....	2,100 00	7,155 06	.....	.....	9,255 06
1832 .....	3,600 00	9,937 91	.....	.....	13,537 91
1833 .....	33,740 00	7,643 83	.....	.....	41,383 83
1834 .....	79,713 68	10,165 37	.....	.....	89,879 05
1835 .....	81,711 15	19,152 57	.....	.....	100,863 72
1836 .....	91,402 26	30,993 77	.....	.....	122,396 03
1837 .....	123,463 22	49,231 91	.....	.....	172,695 13
1838 .....	202,248 30	35,357 25	.....	.....	237,605 55
1839 .....	204,709 65	47,491 19	.....	.....	252,200 84
1840 .....	122,249 65	25,053 55	.....	.....	147,303 20
1841 .....	133,454 53	53,462 55	.....	.....	186,917 08
1842 .....	139,165 87	23,560 70	.....	.....	162,726 57
1843 .....	126,046 24	36,826 05	.....	.....	162,872 29
1844 .....	122,052 21	37,081 55	.....	\$1,238 10	160,371 86
1845 .....	126,274 23	53,511 52	\$5,580 04	3,137 61	188,503 40
1846 .....	78,433 09	115,668 03	5,105 56	1,483 56	200,690 24
1847 .....	120,728 24	107,380 25	8,067 32	5,155 59	241,331 40
1848 .....	137,803 28	132,050 59	17,826 17	1,875 53	289,555 27
1849 .....	120,283 14	259,706 84	10,712 85	2,523 57	393,206 40
1850 .....	124,754 57	151,346 57	12,201 14	2,066 63	390,388 91
1851 .....	137,262 50	179,311 73	8,376 88	4,351 60	329,302 61
1852 .....	112,367 52	270,471 18	14,540 85	3,064 32	400,443 87
1853 .....	142,281 71	269,435 44	9,088 61	2,151 53	422,957 29
1854 .....	117,847 89	216,371 97	10,867 31	1,796 85	346,884 02
1855 .....	106,145 05	233,107 57	7,741 98	1,169 61	348,164 21
1856 .....	120,299 54	236,193 62	41,872 86	12 14	398,378 16
1857 .....	125,545 15	172,047 70	29,399 32	5 84	327,098 01
1858 .....	155,497 30	157,401 30	26,745 93	651 35	340,295 88
1859 .....	96,407 58	159,813 90	15,389 99	2,529 65	274,141 12
1860 .....	180,858 97	148,514 64	12,124 17	4,313 19	345,810 97
1861 .....	36,534 70	69,697 27	6,336 80	2,004 56	114,573 33
1862 .....	5,036 69	1,025 74	375 00	.....	6,437 43
1863 .....	2,915 37	1,050 00	694 14	.....	4,659 51
1864 .....	2,419 02	11 90	.....	.....	2,430 92
1865 .....	2,394 24	5,472 66	.....	.....	7,856 90
1866 .....	3,733 34	2,144 14	378 79	.....	6,256 27
1867 .....	6,699 66	2,317 29	.....	.....	9,016 95
1868 .....	9,533 33	998 18	.....	.....	10,531 51
1869 .....	5,300 00	3,879 20	.....	.....	9,179 20
1870 .....	3,067 38	13,601 79	968 00	.....	17,637 17
1871 .....	1,943 96	11,583 75	78 18	.....	13,605 89
1872 .....	4,844 04	7,015 68	.....	.....	11,859 72
1873 .....	22,948 78	6,914 10	.....	.....	29,862 88
1874 .....	1,919 03	11,319 35	.....	.....	13,238 38
1875 .....	1,961 04	1,001 15	.....	.....	2,962 13
1876 .....	2,097 16	14,325 87	900 00	.....	17,323 03
1877 .....	1,961 04	2,019 78	2,719 25	459 84	7,159 91

TABLE SHOWING THE EXPENDITURES EACH YEAR FOR SUPERINTENDENCE, REPAIRS  
AND COST OF COLLECTION ON THE OHIO CANALS, FROM 1827 TO  
1906, INCLUSIVE. — Concluded.

Year.	Ohio Canal.	Miami and Erie Canal.	Hocking Canal.	Walhonding Canal.	Total on all the Canals.
1878 .....	40,282 39	49,717 78	8,597 88	676 09	99,274 14
1879 .....	68,269 14	82,547 69	9,833 13	473 85	161,123 81
1880 .....	85,434 94	108,972 95	10,830 05	.....	205,237 94
1881 .....	\$88,178 10	\$86,279 87	\$11,430 24	.....	\$185,888 21
1882 .....	82,102 22	101,769 14	8,674 36	400 00	192,945 72
1883 .....	92,666 58	47,363 79	34,770 43	.....	174,804 80
1884 .....	122,644 86	89,596 78	17,684 63	489 56	230,415 83
1885 .....	103,180 87	98,449 55	7,458 13	1,511 74	210,600 29
1886 .....	87,046 74	88,935 64	10,237 76	10,630 72	196,850 86
1887 .....	103,281 89	71,431 06	5,529 32	4,578 62	184,820 89
1888 .....	123,690 87	98,838 94	7,379 67	2,095 18	232,004 66
1889 .....	88,519 30	68,353 19	6,219 11	890 15	163,981 75
1890 .....	80,512 64	79,137 41	4,318 79	945 12	164,913 96
1891 .....	89,773 15	78,685 68	1,938 10	1,028 35	171,425 28
1892 .....	85,027 86	97,434 09	5,731 51	860 66	189,054 12
1893 .....	83,333 61	63,092 29	3,215 54	1,059 99	150,701 43
1894 .....	105,490 39	118,627 21	4,396 65	2,843 27	231,357 52
1895 .....	67,072 80	80,583 84	.....	.....	147,656 64
1896 .....	77,912 51	100,218 95	.....	.....	178,131 46
1897 .....	64,685 36	83,642 02	.....	.....	148,327 38
1898 .....	85,532 60	94,417 65	.....	.....	179,950 25
1899 .....	90,139 76	81,791 94	.....	.....	171,931 70
1900 .....	95,974 07	74,773 49	.....	.....	170,747 56
1901 .....	78,526 43	137,715 47	.....	.....	216,241 90
1902 .....	70,315 96	105,625 45	.....	.....	175,941 41
1903 .....	70,364 15	153,750 95	.....	.....	224,115 10
1904 .....	75,975 79	95,631 75	.....	.....	171,607 54
1905 .....	66,944 91	125,917 28	.....	.....	192,862 19
1906 .....	63,824 44	90,389 96	.....	.....	154,212 40
Total ...	\$6,024,569 64	\$6,082,243 92	\$407,256 14	\$68,474 07	\$12,582,531 26



TABLE SHOWING THE RECEIPTS ON ALL CANALS, FROM 1827 TO 1906, INCLUSIVE.

Year.	Ohio Canal.	Miami and Erie Canal.	Hocking Canal.	Walhonding Canal.	Total on all the Canals.
1827	\$1,500 00				\$1,500 00
1828	4,000 00	\$8,042 70			12,042 70
1829	27,000 00	20,941 36			47,941 36
1830	30,493 93	30,082 33			60,576 26
1831	64,864 17	36,643 88			101,508 05
1832	79,982 48	36,847 47			116,829 95
1833	136,555 70	50,470 63			187,026 33
1834	164,488 98	50,040 99			214,529 97
1835	185,664 48	51,917 00			237,581 48
1836	211,823 32	50,116 52			261,939 84
1837	293,428 79	62,833 40			356,262 19
1838	382,135 96	82,863 09			464,999 05
1839	423,599 84	82,601 19			506,201 03
1840	452,122 03	74,612 88	\$5,953 69		532,688 60
1841	416,202 63	76,718 17	2,518 26		495,439 06
1842	387,442 22	71,460 34	4,215 07	\$610 17	463,727 80
1843	322,754 82	105,640 09	4,349 33	837 77	433,582 01
1844	343,710 99	139,844 25	5,286 44	1,976 78	490,818 46
1845	260,369 33	185,243 78	5,497 83	1,282 95	452,393 89
1846	336,339 69	233,527 24	5,351 52	1,190 71	576,409 16
1847	452,530 76	292,037 00	7,299 14	2,328 77	754,195 67
1848	418,530 37	325,297 32	8,746 98	1,933 01	754,507 68
1849	362,630 48	322,244 43	8,354 84	1,594 72	694,824 47
1850	388,905 93	311,589 27	8,077 44	2,549 04	711,021 68
1851	432,711 38	351,897 72	11,802 04	2,613 44	799,024 58
1852	308,937 40	308,984 56	9,957 25	1,880 80	629,758 01
1853	258,793 09	323,599 97	11,912 21	1,233 25	595,538 53
1854	192,837 18	280,115 80	12,597 18	223 66	485,773 82
1855	196,164 61	229,370 57	16,279 35	377 20	442,191 73
1856	189,506 55	119,947 02	11,118 29	501 89	321,073 75
1857	155,598 11	153,733 37	18,219 41	268 54	327,819 43
1858	108,771 84	153,928 09	16,367 54	798 46	279,865 93
1859	88,205 85	127,610 10	18,336 36	527 18	234,679 49
1860	90,968 39	159,476 64	16,494 28	789 70	267,729 01
1861	36,534 70	64,632 31	7,363 48	755 04	109,285 53
1862	5,036 69	4,664 00	285 67		9,986 36
1863		6,186 11			6,186 11
1864		3,531 66			3,531 66
1865	2,790 50	800 00			3,590 50
1866	2,199 50				2,199 50
1867	5,300 00				5,300 00
1868	1,200 00				1,200 00
1869		2,400 00			2,400 00
1870					
1871		311 00			311 00
1872					
1873					
1874					
1875					
1876					
1877					*401,003 09
1878	54,026 99	54,138 89	5,513 98	5,516 98	119,196 84
1879	76,609 21	112,090 32	8,185 69	275 32	197,160 54



TABLE SHOWING THE RECEIPTS ON ALL CANALS, FROM 1827 TO 1906, INCLUSIVE—  
Concluded.

Year.	Ohio Canal.	Miami and Erie Canal.	Hocking Canal.	Walhonding Canal.	Total on all the Canals.
1880 .....	77,545 66	111,259 67	19,235 58	7,470 45	215,511 36
1881 .....	61,819 03	109,122 88	6,304 45	608 41	177,854 77
1882 .....	\$57,703 25	\$98,764 97	\$5,614 43	\$1,573 89	\$163,656 54
1883 .....	44,873 52	88,904 17	3,693 47	920 42	138,391 58
1884 .....	37,787 79	83,992 14	2,271 41	448 30	124,499 64
1885 .....	25,149 98	76,156 21	2,587 18	71 95	106,965 32
1886 .....	27,071 78	76,043 57	3,199 20	945 71	107,260 35
1887 .....	28,932 35	87,200 36	4,138 38	932 34	121,203 43
1888 .....	29,509 46	75,955 13	3,798 36	906 02	110,168 97
1889 .....	28,005 47	79,476 82	2,605 15	892 12	110,979 56
1890 .....	29,489 20	73,788 02	1,629 17	933 18	105,839 57
1891 .....	42,756 24	63,876 47	856 38	1,023 48	108,512 57
1892 .....	24,990 37	86,722 96	1,197 37	923 64	113,834 34
1893 .....	29,023 90	66,211 86	689 33	588 00	96,513 09
1894 .....	22,716 35	74,716 75	120 51	†6,671 73	104,225 34
1895 .....	24,544 25	80,324 41	.....	†.....	104,868 66
1896 .....	25,591 24	97,327 12	.....	†.....	122,918 36
1897 .....	26,132 17	80,293 14	.....	†.....	106,425 34
1898 .....	22,380 54	57,433 64	.....	†.....	79,814 18
1899 .....	21,657 71	69,151 41	.....	†.....	90,809 12
1900 .....	24,883 25	61,896 70	.....	.....	86,779 95
1901 .....	20,223 42	67,180 60	.....	.....	87,404 02
1902 .....	24,314 96	63,148 23	.....	.....	87,463 19
1903 .....	35,776 56	71,229 40	.....	.....	107,005 96
1904 .....	26,883 87	60,985 71	.....	.....	87,869 58
1905 .....	59,413 55	64,138 49	.....	.....	125,552 04
1906 .....	36,247 75	62,696 36	.....	.....	98,944 11
Total ...	\$9,268,992 53	\$7,260,034 65	\$288,469 42	\$54,972 14	\$16,872,468 71

† Receipts from Walhonding canal included in Ohio canal receipts.  
\* From lessees and receiver from 1861 to 1878, inclusive.

TABLE SHOWING GROSS RECEIPTS, TOTAL EXPENDITURES AND  
NET EARNINGS FROM 1827 TO 1906, INCLUSIVE.

Year.	Gross Receipts.	Total Expenditures.	Net Earnings.
1827 to 1906 (inclusive).....	\$16,872,468 74	\$12,582,531 26	\$4,289,937 48

Report of Chief Engineer  
OF  
The Public Works  
1906

(37)





## REPORT OF CHIEF ENGINEER.

OFFICE OF THE CHIEF ENGINEER OF PUBLIC WORKS, JUDICIARY BUILDING,  
COLUMBUS, OHIO, December, 1906.

*To His Excellency, GOVERNOR HARRIS, And to the Honorable Board of  
Public Works of the State of Ohio.*

GENTLEMEN:—As Chief Engineer of Public Works, I have the honor to submit herewith, in obedience to the requirements of the statutes and the rules and regulations governing the conduct of my office, my fifteenth annual report of the operations of the Public Works of the State for the fiscal year ending on the 15th day of November, 1906, it being the twenty-eighth annual report of this department of Public Works since the creation of the office of Chief Engineer by an Act of Legislature which was passed and took effect May 14th, 1878.

I shall forego in this report any new suggestions or extended remarks in relation to the improvement and rehabilitation of the canals of the State, contenting myself with a brief reference to the subjects treated in my two annual reports last preceding, especially that of 1903, in which I dwelt at length upon the most important issues effecting any future policy to be adopted in the management of the canals, their past history, and recommendations for their retention and improvement.

I beg to call your attention particularly to the following subjects in relation to the Ohio Canal which are treated in detail in the report of 1903 referred to, to-wit:

Historical sketch of the canal and reasons for the retention of the Public Works as navigable water ways.

Aid in providing funds and Government interests.

The leasing of the Public Works and comments.

General conditions. Section of canal necessary to economical haulage.

Comparison of freight rates by canal and by rail.

Maps, cross-sections, profiles and plates attached, in report.

Miscellaneous findings having reference to recommendation made.

Muskingum River improvement as an auxiliary to a future canal system of the State.

General reference and summaries.

Feasibility of improvement and enlargement of canals as recommended.

Basis of expenditure of water supply.

Water supply requisite to meet demands.

Advisability of improvement and betterment.

General recommendations.

Estimates for improving canal by enlargement as recommended.

General reference to the report of the Government Engineers on a barge canal with estimates of cost of construction and other matters along lines of canal interest treated of at length.

It will be noted in my reports that I advocated the rehabilitation on economical lines of the Northern Division of the Ohio and the Miami and Erie Canals — in fact such an improvement and enlargement of both of these canals as would permit the navigation of boats of 115 tons net, increasing their capacity more than fifty per cent.

The adoption of this plan would, I believe, then be within the financial ability of the State, and I recommended that at a *future time* the canal system be further enlarged to a size capable of transporting a full sized Ohio River barge, although such a plan would involve an expenditure beyond the financial resources of the State at present.

The estimates submitted for the rehabilitation of the two canals amounted in round numbers to about one and one-half million dollars. To this sum should be added (on account of changes outlined in more recent reports) about 15% to the estimate submitted for the improvement of the Northern Division of the Ohio Canal between Cleveland and Dresden, and 20% for the improvement of the Miami and Erie Canal; the increase for the Ohio Canal being accounted for by the higher prices for labor and material now prevailing and the tardy execution of the work which could not be anticipated at the time the first estimate was made; the increased cost for the Miami and Erie Canal being explained by the necessity of entirely rebuilding the big State Dam across the Miami River at Middletown and by the decision to substitute concrete for wooden locks between New Bremen and Toledo — numbering 36 — instead of merely repairing such locks with new timber work.

The estimates given in my report of 1903 for the enlargement to a *modern barge* canal of the Northern Division of the Ohio Canal, 150 miles, and of the Miami and Erie Canal, 244 miles, amount in the aggregate to nearly forty-two million dollars; the estimates providing for locks, 26 feet in width and 200 feet in length with a depth over mitre sills 10 feet.

The great difference between the cost of these two plans of improvement, as may readily be conceived, induced the recommendation for the lesser one, taking into consideration the financial ability of the State at the time, and the general purpose to be accomplished.

In the report referred to, I attempted to show, by facts and arguments in favor of the rehabilitation plan, the commercial value of the canal when completed, and that if its management were conducted along economical lines, it could be made self-sustaining for a number of years, pending a future time for the building of a modern barge canal. When



that time comes, I would advise that the canal be increased to the largest capacity compatible with the physical conditions to be contended with.

In consequence of its full presentation of facts and arguments and its recommendations for the retention and rehabilitation of the two canals, such improvement to be begun at once, my report for 1903 was accepted by the friends of the canals as a text-book or manual in presenting the plea for canal improvement to the 76th General Assembly, with the result that a policy of improvement was adopted and appropriations for reconstruction were made by Senate Bill No. 258 which was passed April 25th, 1904.

In as much as this bill is of vital importance, being actually a declaration of the General Assembly in favor of canal improvement along the economical lines recommended, affecting not only the future of the Northern Division of the Ohio Canal, but the entire canal system, I herewith submit a copy of the act in full:

### AN ACT

To provide by appropriation for the improvement of the northern division of the Ohio and Erie Canal.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That as a part of a continuing appropriation hereby begun, for the improvement of the Ohio and Erie canal, there is hereby appropriated from any moneys to the credit of the general revenue fund, not otherwise appropriated for the year 1904, the sum of seventy-five thousand (\$75,000) dollars and for the year 1905, the sum of one hundred and twenty-five thousand (\$125,000) dollars, the same to be expended by the state board of public works, under the direction of the state engineer, and substantially in accordance with plans and specifications prepared by said engineer, and now on file in the office of the state board of public works, for the reconstruction of the northern division of the Ohio and Erie canal, beginning at its northern terminus at Cleveland, Ohio.

Provided, that the appropriation herein made shall not be available until new leases have been made between the state of Ohio and the present water lessees along the said northern division of the Ohio and Erie canal, aggregating in rentals at least the sum of thirty thousand (\$30,000) dollars per annum. Such new water leases shall not be for a greater term than five years, and shall become operative and payable at (the) new rates, as agreed upon in such new leases, as soon as the state of Ohio shall have begun said improvement of the Ohio and Erie canal, which will substantially involve an expenditure of five hundred and seventy-three thousand, sixty-four and thirty-three one-hundredths dollars, (\$573,064.33) in accordance with said plans and specifications prepared by the state engineer, and now on file in the office of the state board of public works. All new leases before becoming operative under the provisions of this act, shall be approved by the governor, the state board of public works and the chief engineer of the state board of public works.

GEORGE T. THOMAS,

*Speaker of the House of Representatives.*

W. G. HARDING,

*President of the Senate.*

Passed April 25, 1904.

Approved May 6, 1904.

MYRON T. HERRICK,

*Governor.*



The 77th General Assembly, continuing the policy of improvement inaugurated by its predecessor, also made appropriations during its session of 1906 as follows, to-wit:

FOR THE YEAR 1906.

For rebuilding the Miami and Erie Canal north of Dayton.....	\$50,000.00
For reconstructing Northern Division of Ohio Canal, Cleveland to Dresden .....	100,000.00
For reconstructing the Miami and Erie Canal, Cincinnati to Dayton....	100,000.00

FOR THE YEAR 1907.

For rebuilding the Miami and Erie Canal north of Dayton.....	\$50,000.00
For reconstructing the Miami and Erie Canal, Cincinnati to Dayton....	156,000.00
For reconstructing Northern Division Ohio Canal, Cleveland to Dresden.	150,000.00

Thus a total appropriation was made, to be especially directed towards the improvement of these two canals as follows:

Ohio Canal Cleveland to Dresden.....	\$450,000.00
Miami and Erie Canal.....	356,000.00
Total appropriations for these purposes.....	\$806,000.00

The work contemplated by these appropriations is now in progress and is specifically outlined and treated in special reports from the Engineers in charge of respective divisions of the canal, hereto attached and made a part of this report.

In order that it may be understood what kind of improvement is contemplated by the appropriation made by the initiatory measure, Senate Bill No. 258, 'as a part of a continuing appropriation thereby begun,' and by other appropriations to follow, I beg to submit the following statement, quoting largely from my report referred to:

"The present material body of the Public Works of the State is, in the abstract, worn out, and unless the slow and certain decline into which the canals are falling, is very soon arrested by proper ways and means, they will be forced out of business as freight carriers and as a source of water supply.

The Public Works have their excellent, good and bad physical parts, the first two largely predominating in extent and volume, while the latter, as may be readily understood from an industrial standpoint, govern results and the actual efficiency of the whole.

In late years, where special appropriations have been made for the purpose, or where it has seemed important, for obvious reasons, to concentrate means for making special improvements on those parts of the canals which bring in the greatest revenues, decided betterments of a specific character have been made. However, where this policy (forced upon the officers of the Department since the time when the property

was turned back to the State in a crippled condition) has been carried out, it has necessarily worked an injury to other parts of the canal less favored. Ever since these changes in the affairs of the Public Works were brought about, (primarily by the lease in question,) there has been a gradual falling off in gross earnings, and in direct appropriations by the Legislature, the latter naturally influenced by the diminished amount of the former, the effect of which has been to further gradually cripple the physical condition of our canals and their ability to meet the demands for traffic and other purposes for which they were intended.

These and other adverse and long prevailing conditions have acted as a serious hindrance to their success otherwise, until the canals can no longer economically furnish water for manufacturing and domestic uses or dictate and enforce minimum freight charges, the latter being the particular purpose for which water ways are constructed and maintained by a government, although it remains a pertinent fact that some certain portions of the canals are still performing this important function of their creation and at present do actually limit maximum charges in many cases. In fact, the canals of Ohio have practically been permitted to remain dormant for nearly half a century, deprived of any improvements whatsoever in their mechanical parts and suffered to become physically disabled, until they have fallen so far below a moderate standard of efficiency that they are unable longer to keep pace with railway transportation, while on the other hand the roadbed and equipment of railways have been constantly improved by the adoption of every possible invention that unlimited means could command and which could in any manner effect a reduction in operating expenses.

These unequal conditions have given rise to an erroneous estimate of the capabilities of a canal as a freight carrying competitor and to the unjust conclusion on the part of some that our Ohio canals are obsolete and not worthy of favorable consideration."

In fact the condition of our canal had become such as to render it a menace to the safety of our people and a source of constant damage to abutting property. Owing to neglect, necessitated by the indigency of the Department, many of the walls were overhanging more than a foot; the feeder dams were leaky and some of them out of commission; many aqueducts and other minor structures were in bad physical condition, until it was a common saying of your employes that they could not understand what kept these structures standing unless it was "force of habit," and the falling in of the canal prism which became a hindrance to navigation.

It was such a condition of affairs that at last forced the declaration of a policy by the legislature, resulting in the appropriation noted above, contemplating a rehabilitation of the two parts of the canal mentioned, in such a manner as to permit the transportation of boats capable of carrying a net burden of 115 tons; in fact, again quoting from my report:



"The improvement of the Miami and Erie Canal and of the Northern Division of the Ohio Canal to be such as to insure their maintenance at a minimum cost. All new masonry to be of first-class character; the foundation timbers of locks and the unlaied portions of lock walls to be fully grouted and faced, where required, with Portland cement concrete; new gates and mitre sills to be supplied were required; the timber entering into any kind of work to be sound and durable; all new aqueducts of over 20 feet span to be of a combination of steel and wood; present timber aqueducts that will stand the test to be repaired in a good substantial manner; all dams and wasteways to be rebuilt and repaired with timber and concrete where necessary, and all work of every character and kind to be done in a good and workmanlike manner, so as to insure stability; the entire channel of the canal, where required, to be newly excavated so as to admit the free passing of boats loaded to their maximum capacity; the improvement to be confined to the present canal right of way, the ownership of which is held by the State in fee simple."

I have the honor to transmit herewith, as part of this document, the following reports made to me by Messers. Wonders, Hanlon, and Paul, Engineers who each have charge of one of the three divisions of the improvement, showing particularly the extent of the improvement as now finished and in progress of construction, contracts entered into, a statement of monies expended and all business connected therewith, and outlining plans and recommendations for continuing the improvement for next season; the said Engineers having been appointed under authority of an act of the 77th General Assembly which passed and took effect April 2, 1906.

As the act is an important measure affecting the government of the department, I take the liberty of quoting its full text as follows:

(Senate Bill No. 32.)

#### AN ACT

To amend section 2 of an act entitled "An act to define (defining) the powers and prescribing the duties of the board of public works," passed May 14, 1878, and to extend the existing term of a member of the board of public works, so as to effect the purpose of section 1, article XVII of the constitution; and to define the duties of the chief engineer of public works; and to confer the powers and duties of the Ohio canal commission upon the board of public works of Ohio and to limit the powers of said board of public works in leasing canal and state lands.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 2 of an act entitled "An act defining the powers and prescribing the duties of the board of public works," passed May 14, 1878, be so amended as to read as follows:

Sec. 2. The term of office of the member of the board of public works which would otherwise expire on the second Tuesday of February, one thousand, nine hundred and eight, is hereby extended to the second Tuesday of February, one



thousand, nine hundred and nine, and the incumbent in said office at the time when said existing term would otherwise expire, shall continue to hold and enjoy the same until the expiration of said term as so extended, subject to all the provisions of law relating to removals or vacancies therein.

Provided, that before entering upon his duties for such added period, to secure the faithful performance thereof, he shall give bond to the state in like manner and form as is required of one elected to fill such office.

At the election for state and county officers held in the year one thousand, nine hundred and six, and quadrennially thereafter, one member of the board of public works shall be elected, and at the said election held in the year one thousand, nine hundred and eight, and quadrennially thereafter, two members of said board shall be elected; and the terms of office of all such members of said board hereafter elected shall commence on the second Tuesday of February next after their election, and continue four years.

Each member of the board shall receive eight hundred dollars per annum salary, and not to exceed fifty dollars per month traveling expenses, during the time the state has possession of the public works, and eight hundred dollars per annum salary thereafter, but shall not receive any traveling expenses. Said salary and expenses shall be paid monthly after the services are rendered and expenses incurred, upon the order of the board, out of the canal fund on the warrant of the auditor.

SECTION 2. The chief engineer of the public works, in addition to the powers and duties conferred and imposed upon him by existing laws, shall prepare all plans and specifications for all contracts or other work in connection with the rebuilding, reconstruction or improvement of the public works or canals, or either of them, or any part of the same, which may have been, or may be provided for by specific appropriation. All work in connection with the rebuilding, reconstruction, or improvement of the public works shall be let by contract whenever the same is possible in the opinion of the board of public works and the chief engineer. All contracts for such rebuilding, reconstruction, or improvement shall be so made and let as to insure the fullest competitive bidding, and prevent the subletting of contracts.

During such time as the chief engineer shall be actively engaged in the rebuilding, reconstruction, or improvement of any part of the public works, he may, subject to the confirmation and approval of the board of public works, appoint not to exceed two field engineers, who shall, under the supervision of the chief engineer, have immediate charge of the work in the field, and who shall be practical civil engineers, and shall be paid at the rate not to exceed two hundred dollars per month, and their actual and necessary expenses, while actively engaged in such work. Each field engineer shall give bond with good and sufficient sureties to the approval of the board of public works, the chief engineer, and the attorney-general, in the sum of ten thousand dollars, conditioned for the faithful performance of his duties, which bond shall be filed with the treasurer of state.

During such time as the chief engineer shall be actively engaged in the rebuilding, reconstruction, or improvement of any part of the public works, he shall, subject to the confirmation and approval of the board of public works, appoint such number of inspectors and other employes of the engineering corps as may be necessary to insure the prompt and faithful performance of all contracts and other work under his charge.

The chief engineer may remove any field engineer, inspector, or other employe of the engineering corps at pleasure, but shall have power to fill the vacancy only for the period intervening between the time of removal and the next meeting of the board of public works.

All expense accounts of the field engineers, inspectors and employes of the engineering corps shall be itemized and verified under oath and approved by the chief engineer and the board of public works before allowed or paid.

All payments on account of contracts or other work in connection with such rebuilding, reconstruction, or improvement, shall be made upon estimates to be furnished by the assistant engineers to the chief engineer, which estimates if approved by the chief engineer, shall be submitted to the board of public works, and when approved by said board, the board shall issue their warrant for the payment of the same as provided by law.

SECTION 3. That on and after the 28th day of April, 1906, all the powers and duties conferred on the Ohio canal commission by the statutes be and they are hereby conferred upon and vested in the board of public works and all sections of the statutes of Ohio relating to the said Ohio canal commission are hereby made applicable to the board of public works of Ohio; provided, however, that no land lease or sales of canal or state lands shall be made except with the written approval of the governor and attorney general.

SECTION 4. That said board of public works is hereby authorized to expend out of the canal earnings of the state an amount not exceeding four thousand dollars per annum to meet the salaries and necessary expenses of the employes and the actual expenses of the said employes of the board of public works when discharging the additional duties devolving upon them and heretofore imposed upon the canal commission.

SECTION 5. That on or before the 28th day of April, 1906, the canal commissioners shall deliver to the president of the board of public works at the office of said board all books, records, documents, papers, surveys, maps, plats, furniture and all other property of the state of any description in their possession or under their control as such commissioners.

SECTION 6. The canal-commissioners shall file with the governor at the expiration of their term of office their final report as required by law covering the time between the date of their last report and the date of the expiration of their term of office.

SECTION 7. That said section 2 of an act entitled "An act defining the powers and prescribing the duties of the board of public works," passed May 14, 1878, and all acts and parts of acts inconsistent herewith be and the same are hereby repealed.

C. A. THOMPSON,  
*Speaker of the House of Representatives.*

JAMES M. WILLIAMS,  
*President pro tem. of the Senate.*

Passed April 2, 1906.

Following are the reports referred to:

REPORT OF JAMES C. WONDERS, CIVIL ENGINEER, IN CHARGE OF  
THE MIAMI AND ERIE CANAL IMPROVEMENT.  
OFFICE, MIDDLETOWN:

"In compliance with your request and the rules and regulations which you have prescribed for the conduct of this office, as Assistant Engineer of the Improvement of the Miami and Erie Canal, under an appropriation made by the General Assembly, I herewith submit the report of the operations of this department for the period ending with the fiscal year on the 15th day of November, 1906.

I received my appointment, coming from you, and approved by the Board



of Public Works, April 10, 1906, qualified in accordance with the law and gave bond in the sum of \$10,000.00 and began work immediately.

Middletown was selected as headquarters for this department and an office has been fitted up in the state warehouse building.

W. E. McElree, draftsman, George D. Baker, levelman and Joseph Schneller, rodman, were employed and began work April 30, and H. C. Baldwin was employed as a field assistant and began work May 28. A. H. Sawyer was employed making tracings and blue prints of maps in the Columbus office from April 29, to July 5, and H. W. Meacham has done special engineering work on that part of the canal between Dayton and Toledo. In addition to the above it has been necessary to employ on a few occasions, other assistance, the expense of which has been included in this report under the head of engineering expenses.

Mr. McElree and myself have done considerable work on the division from Dayton to Toledo.

The canal has been leveled from Cincinnati to Dayton and the levels have checked with U. S. Geological Survey Bench Marks. Cross sections have been taken and calculations for the dredging have been made.

Surveys of locks, aqueducts, overhead bridges and other structures have been made between Dayton and Cincinnati, including a survey of the site of the proposed new dam across the Miami about three miles north of Middletown. Surveys of a number of locks and other structures have been made between Dayton and Toledo including the Grand Rapids dam on the Maumee River.

Surveys, maps and cross sections have also been made showing the encroachment of the C. C. C. & St. L. Ry. along the canal between Miamisburg and West Carrolton.

Levels have been taken to fix the grade of the Miami Aqueduct.

Of the appropriation made for this work, \$100,000.00 was available between Dayton and Cincinnati and \$50,000.00 was available between Dayton and Toledo for the year 1906.

Plans and specifications have been prepared and contracts let as follows,  
Dayton to Cincinnati,

Lesourdsville Aqueduct, superstructure, steel truss with wooden trunk, date of letting June 12, 1906. Contractor, Capital Construction Company, contract price \$5,549.00.

Sunfish Aqueduct, superstructure, steel frame with wooden trunk, date of letting June 12, 1906. Contractor Capital Construction Company, contract price \$2,485.00.

Dredging canal from Middletown to Lockland estimated at 350,000 cubic yards. Contractor Acme Paving Company, contract price 12 cents per yard, estimated amount of contract \$42,000.00. Date of letting, July 10, 1906.

Constructing concrete additions to the abutment of the Lesourdsville Aqueduct, date of letting July 10, 1906. Contractor, Frank Davis, estimated amount of contract \$1,339.23.

Constructing concrete additions to the abutments and a concrete pier at Sunfish Aqueduct, date of letting July 10, 1906, John Snyder, Contractor, estimated amount of contract \$1,068.49.

Rebuilding Locks No. 32, 33, 34, 35, 36, and 37 between Middletown and Lockland date of letting July 10, 1906, Frank Davis, Contractor, estimated amount of contract \$7,140.24.

Rebuilding Locks No. 38, 39, 40, 41, 42, and 43 between Middletown and Lockland, date of letting July 10, 1906, Frank Davis, Contractor, estimated amount of contract \$6,864.38.

Furnishing hardwood lumber on board cars at any station between Middle-



town and Lockland, date of letting July 10, 1906. W. J. Orr, Contractor, estimated amount of contract \$2,297.20.

Delivery of Portland cement at railway station between Middletown and Lockland, date of letting July 12, 1906. The Atlas Portland Cement Company, Contractor, estimated amount of contract \$5,100.00.

The total estimated amount of the above contracts between Dayton and Cincinnati being \$73,843.54.

Contracts have been let between Dayton and Toledo as follows:

Six Mile Aqueduct, date of letting July 12, 1906, David Beard Contractor, estimated amount of contract \$4,482.60.

Miami Aqueduct, two 80 ft. spans, date of letting July 12, 1906, Capital Construction Company, Contractor, contract price \$11,800.00.

Defiance Locks, No. 36 and 37, date of letting July 12, 1906. Schneider Bros., Contractors, estimated amount of contract \$10,549.00.

Lock No. 14, about five miles north of St. Marys, date of letting July 12, 1906. Schneider Bros., Contractors, estimated amount of contract \$6,944.50.

Spencerville Culvert, date of letting July 12, 1906. J. N. Kissner, Contractor, estimated amount of contract \$1065.40.

Delivery of 2500 barrels of cement at Defiance, 1600 barrels at St. Marys and 1000 barrels at Spencerville, date of letting July 12, 1906, the Atlas Portland Cement Company, Contractor, estimated amount of contract \$8609.00.

The total estimated amount of the above contracts between Dayton and Toledo is \$43,450.50.

Of the work above described the dredging has not yet been begun, but the dredge is built and almost ready to begin work. The Lesourdsville Abutments are about two-thirds completed and the superstructure is being erected.

The Sunfish concrete work is almost finished. The Six Mile Aqueduct has one abutment nearly completed. The Middletown Lock has been completed and Amanda Lock is nearly done. Lock No. 37 at Defiance is finished and Lock No. 36 is about one-half done. Nothing has been done at Lock No. 14 near St. Marys. The Spencerville Culvert is finished. The delivery of lumber and cement has been very satisfactory. The materials have been of fine quality and delivery has been prompt.

No work was completed and ready for the final estimate at the time of filing the October Abstract.

The progress of the work has not been satisfactory but it is largely due to the scarcity of labor which has prevailed over this entire region.

All of the work except the dredging was to have been completed by November 1st. Under the terms of the contracts we could have taken the work from the contractors and employed other help to complete it, but I doubt if at any time I could have secured any more men than the contractors were working.

The work completed has been done in a satisfactory manner. Owing to the nature of this work it has been impossible to accurately estimate the quantities of the different kinds of work, and especially has this been found true in tearing down the old stone lockwalls. In each lock torn down thus far, the condition of the old masonry has been found to be worse than the surface would indicate and notably in the case of the Excello Lock which was estimated to have part of its masonry relaid and it was found on tearing down the walls by inspection by yourself and the Board of Public Works to be in such a bad condition that you have ordered it rebuilt with concrete after the manner of the Middletown Lock at an additional cost of about \$3000.00.

The work of building dams and pumping out the locks, repairing the lock floors, building and placing gates and back-filling against lock walls and abutments

is reserved for the forces of the superintendent of repairs and will probably amount to \$1000.00 per lock.

Work has been done by the superintendents and paid for from the fund appropriated for the improvement from Dayton to Cincinnati in the sum of \$17,029.42 and from the fund for the improvement from Dayton to Toledo in the sum of \$471.06.

The most important work to be done next year between Dayton and Cincinnati is the dredging of the canal from Miamisburg to Middletown. It is impossible for a boat to pass through this part of the canal and it should be opened to permit navigation from Dayton to Cincinnati. This work is estimated at 230,000 cubic yards that can be deposited on the banks at 15 cents per cubic yard, amounting to \$34,500.00 and 85,000 cubic yards that will have to be hauled to dumping grounds at a cost of 50 cents per cubic yard, amounting to \$42,500.00. Total cost of dredging, Miamisburg to Middletown is estimated at \$77,000.00.

Also contracts should be let for dredging from Lockland to Cincinnati amounting to 140,000 cubic yards that can be deposited on the banks at 15 cents per cubic yard amounting to \$21,000.00, and 70,000 cubic yards that will have to be hauled to dumping grounds at a cost of 50 cents per cubic yard amounting to \$35,000.00.

Total cost of dredging, Lockland to Cincinnati is estimated at \$56,000.00.

Total estimate of this dredging is \$133,000.00.

Sluice gates for washing mud from the canal should be constructed at frequent intervals where proper outlets can be secured. These sluice gates should be substantial structures of concrete.

Where it is not necessary to raise the banks it is more desirable to deepen the canal by washing than by dredging, and the right to do such work in advance of the dredging has been reserved in this year's contract and will be in future contracts.

By using this method of excavating it may be possible to reduce the cost of deepening the canal in those parts where the excavation cannot be deposited on the banks.

The locks between Dayton and Middletown should be repaired and placed in condition corresponding to the work south of Middletown.

The old submerged stone arch culvert at Holwigger's should be replaced with a larger culvert built of concrete.

The headgates at Dines should be rebuilt. The old iron frames and gates can be used but the rest of the structure should be built of concrete.

Between Dayton and Toledo, the improvement of the Providence dam, the rebuilding of Buchland lock, and Locks 49, 51 and 52 in the City of Toledo, and the repair of the waste weir at Loramie Reservoir are improvements that call for immediate attention, but the money available is not sufficient for all of this work, and the part to be done will have to be determined upon.

I have merely outlined in the above report the work to be done during the coming year, but detail plans and specifications will be prepared for this work, to be presented at the January meeting of the Board of Public Works.

The money paid out for work done on this improvement to date, is as follows:

#### DAYTON TO CINCINNATI.

Engineering, salaries .....	\$4,051 25
Engineering, personal expenses.....	1,934 52
Engineering, extra help.....	80 80
Engineering, boarding boat.....	213 04
Office and field party equipment, supplies and livery.....	627 47
Advertising .....	300 45



Operating State Dredges No. 4 and 6.....	1,600 15
Repairs Middletown Dam.....	258 36
Hauling lumber .....	22 50
Express on canal scrapers.....	3 00
Carpenter Shop supplies.....	21 55
Washing Lockland Basin.....	200 62
Paving under Miamisburg Aqueduct.....	353 01
Pointing walls Shepherds Run Culvert.....	146 60
Scraping canal Dayton to West Carrollton.....	13,455 61
Lockgates castings .....	21 10
Portland cement .....	2,333 25
Hardwood lumber .....	555 96
Middletown Lock .....	2,423 72
Amanda Lock .....	866 48
Lesourdsville Aqueduct .....	3,535 87
Inspectors .....	290 00
Sunfish Aqueduct .....	1,548 98
	<hr/>
	\$34,844 29

## DAYTON TO TOLEDO.

Engineering fees.....	\$310 00
Engineering, personal expenses.....	156 05
Engineering, miscellaneous expenses.....	66 06
Advertising .....	61 57
Inspectors .....	476 00
Portland cement .....	4,104 90
Lock No. 36.....	612 80
Lock No. 37.....	5,315 23
	<hr/>
	\$11,102 61

REPORT OF JOHN A. HANLON, CIVIL ENGINEER IN CHARGE OF  
THE NORTHERN DIVISION OF THE OHIO CANAL.  
OFFICE, AKRON.

In compliance with the regulations of your office I submit herewith a report of the operations under the Act of the Seventy-seventh General Assembly of Ohio, providing for the improvement of the Northern Division of the Ohio Canal, covering the last seven and one-half months of the fiscal year, ending Nov. 15, 1906, and extending over that portion of the Canal between the Muskingum River at Dresden and the north end of Portage level at Lock 22 between Akron and Cleveland, distance 117 miles.

## DRESDEN LOCKS.

At the time of taking charge of this Division pursuant to my appointment in April 1906, no construction work was at that time under contract, except that under contract with the Clifton Bros. of Durant, Ohio, for the rebuilding of Lock No. 3 (Outlet Lock), at Dresden, Ohio, and the repairing of Locks 1 and 2 at the same place.

This contract was entered into in Nov. 1905, and at the time I took charge, Lock 3 had been entirely excavated and the contractors were ready to begin the new work.

The work contracted for comprised the entire rebuilding of Lock No. 3, and the necessary repairs to Locks 1 and 2.



Lock No. 3 had been partially destroyed by the flood waters and ice gorges in the Muskingum River, and was in consequence entirely rebuilt.

Locks 1 and 2 required new gates, reflooring in part, rejoining of old masonry and new wing walls in place of timber cribs.

The new masonry was built mainly of concrete; the mass consisting of about two-thirds gravel concrete and one-third selected stone from the old work, imbedded in the gravel concrete.

Lock No. 3 rests upon a rock foundation.

The elevation of lower miter sill provides for a depth of six feet of water from the crest of the proposed Dam No. 11 on the Muskingum River between Dresden and Zanesville as located by the U. S. Engineer, and from whose office, elevations were furnished showing relative location of miter sills at Lock No. 3.

The contract was completed in July, together with such repair work as was performed by the State repair force, and the entire cost of the work done on Locks 1, 2 and 3 amounted to \$12,073.13.

#### AKRON LOCKS.

Immediately after assuming charge of the improvement work on this Division, with office at Akron, I proceeded to employ and organize an efficient force for both field and office work, and at once began the preparation of the surveys, plans and specifications for rebuilding the 21 locks at Akron, extending northward from the Summit level through the City of Akron, a distance of 23 miles. Plans were prepared for each lock and approximate quantities made up for the information of contractors.

The plan of the new lock work is on same general plan as the old work. The side walls instead of standing plumb, have a batter of six inches, thus having a width of 16 feet at top and 15 feet at bottom. A uniform plan of wing was adopted differing somewhat from the old plan.

The clear length of lock chamber is 87 feet, a depth of 5.25 feet of water is provided for over miter sills. It was found that with few exceptions the two bottom courses, of about 4 feet in depth, were in good condition and with the breast wall under upper miter sill were left in place. This reduced the original estimate of quantities in masonry over 100 cubic yards in each lock.

The new masonry is mainly of gravel concrete of a 1-3-6 mixture. Our specifications provide for the use of the old lock stone to the extent of about one-third of the mass. The selected stone are imbedded in the concrete in layers, all stones separated from each other by not less than eight inches of concrete, and no stone to be laid nearer than twelve inches of top, face or end of a wall.

In connection with the preparation for rebuilding the Akron locks, plans were made for the rebuilding of Lock 16 at Trenton, in Tuscarawas County.

This lock was in such condition as threatened closing up the canal at that point.

The Akron work consisting of the 21 locks, together with all of the smaller canal structures intermediate, consisting of sluices, culverts, spillways, etc., was divided into six sections of 3 and 4 locks each, including the intervening small structures, the lines between the sections being fixed at such points through the city as would give contractors of each section independent access from some public street or alley.

The lock work is divided in sections as follows:

Section 1, Locks 1, 2 and 3.

Section 2, Locks 4, 5, 6 and 7.

Section 3, Locks 8, 9, 10 and 11.

Section 4, Locks 12, 13 and 14.

Section 5, Locks 15, 16, 17 and 18.

Section 6, Locks 19, 20 and 21.

Pursuant to advertisement in the principal Engineering and Contract Journals of the country, as well as in many city and country newspapers, bids were received in Columbus at noon on the 12th day of July for the rebuilding of 21 locks and smaller canal structures at Akron, as also for the rebuilding of Lock 16 at Trenton in Tuscarawas County.

In view of the extent of the Akron work, its character number of bidders and more or less adverse comment on the awards made by the Board of Public Works, I feel justified in going into details and occupying space to set out plainly the whole proceeding.

The following tabulation shows the names of bidders on the Akron work, the prices on each section, and the aggregate of each bid computed from the estimated quantities in the principal classes of the work:

Contractors.	Sec.	Dry Exc.	Wet Exc.	Concrete.	Total of bids.
S. W. Parshall.....	1	\$0.01	\$0.01	\$3.25	\$8,175 00
P. T. McCourt.....	1	.20	1.00	3.10	9,084 00
James Wildes .....	1	.50	1.50	3.40	11,619 00
J. N. Kissner.....	1	.40	1.00	4.55	13,683 00
S. W. Parshall.....	2	.01	.01	3.50	12,663 10
P. T. McCourt.....	2	.30	1.00	3.45	14,879 50
James Wildes .....	2	.50	1.50	3.40	16,265 00
J. N. Kissner.....	2	.40	1.00	4.55	19,366 50
S. W. Parshall.....	3	.01	.01	3.25	11,493 10
P. T. McCourt.....	3	.20	1.00	3.10	12,792 00
James Wildes .....	3	.50	1.50	3.40	16,459 00
E. McShaffer & Son.....	3	.48	1.40	3.35	16,089 00
A. A. Lykens .....	3	.25	.60	4.20	17,187 00
S. W. Parshall.....	4	.01	.01	3.25	8,778 90
McGarry & McGowan .....	4	.20	1.00	3.20	10,281 00
Farver & Penick.....	4	.80	2.00	5.15	20,208 00
A. A. Lykens.....	4	.20	.80	4.00	12,528 00
James Wildes .....	4	.50	1.50	3.40	13,176 00
S. W. Parshall.....	5	.01	.01	3.35	11,738 50
McGarry & McGowan.....	5	.20	1.00	3.20	13,036 00
Farver & Penick.....	5	.75	2.00	4.65	22,897 00
J. N. Kissner.....	5	.40	1.00	4.40	18,702 00
J. A. Swingle.....	5	.30	.80	4.90	19,662 00
James Wildes .....	5	.50	1.50	3.40	16,352 00
S. W. Parshall.....	6	.01	.01	3.40	8,440 40
McGarry & McGowan.....	6	.20	1.00	3.20	9,199 00
J. N. Kissner .....	6	.40	1.00	4.55	13,482 50
E. McShaffer & Son.....	6	.50	1.50	3.50	11,695 00
James Wildes .....	6	.50	1.75	3.75	12,340 00

It will be noted that Mr. Parshall was the lowest bidder on each section, having bid a merely nominal price on each of the two classes of excavation, proposing in fact, to perform about 15% of the work for practically nothing, and with no increase of prices on the other classes of the work to offset it.



It will also be seen, that had Parshall bid for "wet" and "dry" excavation at the lowest prices bid by any other contractor, he would not have been the lowest bidder in the aggregate on a single section.

The unbalanced features of Mr. Parshall's proposal, together with his experience in this class of work, naturally created doubts in the minds of the Board as to the expediency of awarding a large contract under these circumstances.

There was not a single contractor of the nine, who bid on the Akron work who had equipment sufficient to complete one-half of the contract within the time limit, or who would undertake it, and every one of the bidders were experienced men and had equipment to place on the work if awarded them, except Mr. Parshall.

Some of Mr. Parshall's ill advised and over zealous friends attempted to bring about legal proceedings to enforce the award to him, but fortunately, without success.

In the preparation of the specifications, the contingency of a low bidder demanding the award of all the work because he was the low bidder on all, was anticipated, and the following clause inserted in the "Information for Bidders."

Contractors may bid on one or more sections, making one price for each class of work on each separate section, and contractors must bid with the condition, that they will accept an award and enter into contract to construct the work on such sections, whether one or more, as may be awarded to them by the Board of Public Works, irrespective of the number of sections upon which the contractor may be the lowest bidder."

After a recess of one week, the Board decided to divide the work in three contracts as follows: Sections 1 and 2 to P. T. McCourt; Sections 3 and 4 to S. W. Parshall and Sections 5 and 6 to McGarry & McGowan, and so awarded the contracts. McGarry & McGowan and McCourt were the next lowest bidders.

The aggregate of these contracts as awarded to the several contractors on their bids per section was as follows:

P. T. McCourt, \$23,963.50; S. W. Parshall, \$20,272.00; and McGarry & McGowan, \$22,235.00; total, \$66,470.50. S. W. Parshall's aggregate bid on six sections, \$61,289.00.

The statement has been made from time to time since the awards were made and the work in progress, that the disposition of the contracts as awarded by the Board involved a considerable loss to the State, to the extent of the difference between the aggregate bid on all sections by Mr. Parshall and the aggregate of the contracts as awarded, something over \$5000.00.

The progress of the work up to this time shows that the Board made no mistake in judgment in dividing the Akron work, and had they awarded the entire contract to Mr. Parshall, the difference of \$5000.00 would have been expended several times in expense of Engineering and inspection and delays in completing the contract.

The quantities in the lock work as actually built will be less than the original estimates. It has been found practicable to make the excavations in earth in rear of old walls with steeper slopes than estimated, and over 100 cubic yards of old masonry in each lock has been found in good condition and left in place. This occurs in the bottom courses in chamber of lock and breast wall.

A number of sluices, spillways and other minor canal structures, which were not carried into the original estimates and none of which have as yet been built, will probably bring the cost of all the structures up to the total of bids of contractors to whom the work was awarded.

It has been deemed best to have the contractors complete the locks and



then build the small structures, which require less equipment to do the work, and may be built largely from surplus stone from the old locks.

It having been decided by the Board to furnish all cement used by contractors on the work, proposals were invited from cement manufacturers for furnishing and delivering cement at different points on the canals, 12,000 barrels of which were allotted to Akron.

Of proposals received, the Edison Cement Co. was the lowest bidder at \$1.60½ per barrel in paper sacks.

#### CEMENT CONTRACT.

On inquiry concerning this cement, it was found that it was comparatively a new brand, and from tests made at Cleveland, showed a variableness in its "setting" properties, and not being a well known cement in this section of the State, it was decided to award the contract to the next lowest bidder, The Atlas Portland Cement Co. of 30 Broad Street, New York, with works at Northampton, Pa. Their proposal was \$1.63 per barrel in paper sacks delivered at points designated on the Ohio Canal.

This office has had tests made from nearly every car of cement received, by Cleveland chemists, and the results almost uniformly have been above the requirements of the contract.

Owing to complaints of the contractors in regard to breakage of paper sacks and consequent delays in caring for it, since Oct. 1st, cement has been ordered shipped in cloth sacks.

The cement is charged at \$1.90 per barrel in cloth sacks, with a rebate of 27 cents per barrel for sacks returned when empty.

#### LOCK 16. TRENTON.

On July 12th, as per advertisement inviting bids for the Akron locks, bids were received for rebuilding Lock 16 at Trenton, Tuscarawas County. Three proposals were received from G. W. Murphy, McGarry & McGowan and J. N. Kissner, aggregating \$5809.50, \$5329.00 and \$4324.00 respectively.

The work was awarded to J. N. Kissner at his bid of \$0.35 per cubic yard for dry excavation; \$1.00 per cubic yard for wet excavation, and \$3.75 per cubic yard for concrete masonry.

About the time the contractor began operations, in connection with the Superintendent of Repairs, it was decided to use the old stone in Lock 16 to protect the canal bank at a point between Locks 16 and 17, where the river had encroached and some protection had been already made with piling.

#### LOCK 16, TRENTON.

To use the stone in this way, necessitated an allowance to the contractor for the gravel concrete substituted for the stone so used, estimated at one-third of the entire masonry, and adding \$1.25 per cu. yd. for the concrete masonry.

This change provided for the protection at a considerably less cost than could have been secured from any other source.

#### MUD RUN CULVERT.

On August 28th, proposals were received for building a pipe culvert under the canal about one mile east of Barberton, at Mud Run.

The construction of this culvert became necessary on account of the improvement of Mud Run under the Ditch law by the County Commissioners, the stream being dredged out to a depth about two feet lower than the bottom of the old culvert.

The culvert which was a part of the original canal construction was of timber, but in good condition, however, to give the land owners the full benefit of the improvement for which they are assessed, the Board ordered the construction of a new culvert at the grade established by the County Commissioners.

The culvert has been built of three lines of 30 inch d. s. sewer pipe, the lines of pipe spaced eighteen inches apart and imbedded in a concrete foundation to half their depth. The culvert is 100 feet in length and has concrete head walls at each end.

The work has cost about \$2,400 out of which, the lumber used for dams and forms not left permanently in the work, has been recovered and is available for other purposes.

#### LUMBER CONTRACT.

On July 19th, pursuant to advertisement, bids were received for furnishing oak lumber for lock gates at Akron.

There were two proposals received, one from The Bowers Conkle Lumber Co., of Massillon, Ohio, and one from E. J. McLaughlin & Co., of Canal Fulton, Ohio, both bidding \$29.00 per 1,000 feet B. M.

Later, contract was made with The Bowers-Conkle Lumber Co., for 80,000 feet B. M., and with E. J. McLaughlin & Co., for 40,000 feet B. M. at the prices named.

Also, on July 19th, proposals were received for dredging the Walhonding feeder of the Ohio canal from Roscoe to the Six Mile Run.

The bids were as follows:—

McGarry & McGowan, 60,000 cu. yds. @ 22c.....	\$13,200.00
W. H. Schott, 60,000 cu. yds. @ 16c.....	9,600.00
J. N. Kissner, 60,000 cu. yds. @ 12.....	7,200.00

The work was awarded to J. N. Kissner and contract entered into August 1st. No work will be done on this contract until the completion of a new dredge in January.

#### DREDGING WALHONDING CANAL.

In the agreement between the Board of Public Works and Wm. Himebaugh of Coshocton, Ohio, for the use of the surplus water from the Walhonding Canal for power purposes, (of which the above mentioned dredging contract is one of the undertakings on the part of the Board of Public Works,) it is provided that the State will deepen and widen the channel of the canal "so as to give a minimum cross section at least equal to the minimum cross section of canal as shown by exhibits "C" and "D" of the Chief Engineer's Report to the Board of Public Works for the year 1903," etc. It has been ascertained from cross sectioning this canal channel, that at points along the first mile from the head of the canal, the area in the cross section "C," (which is the minimum referred to in the agreement), can not be obtained with the ordinary earth slopes, on account of the canal originally having been built with a water line width of only 40 feet.

To compensate for this it has been decided to deepen the channel from the guard lock (one-half mile below dam) to Roscoe and increasing the fall of the level as much as practicable between the two fixed points, to-wit:—the miter sills of guard lock and the back of arch culvert near Roscoe, and in this way increase the flow to as much or more than the estimated flow as contemplated in the above mentioned agreement.

This change of cross section will increase the quantities over and above the quantity as estimated at the time contract for dredging was made, about 25,000 cubic yards.



Another undertaking under the above mentioned agreement was to rebuild the Six Mile Dam on the Wallhonding River.

The Six Mile Dam is in the Wallhonding River at the head of the last section of the old Wallhonding Canal which is now used as a feeder for the Ohio Canal at Roscoe, in addition to furnishing water power for two or three mills. The distance from the inlet to this feeder at the dam, to Roscoe, its junction with the Ohio Canal, is six miles.

The Six Mile Dam is a timber crib structure, filled with stone, built about 70 years ago.

It rests partly on rock bottom, partly on the gravel. There has been a movement of the structure as indicated by its alignment, at some time in the past.

Its stability and permanency is a matter of conjecture. As it stands, its worst defect is leakage. To repair this leakage, for which proposals were received on November 14th, would cost about one-fourth that of a new dam.

Bids were advertised for and received at Columbus on July 19th. Several proposals were received on the State's plan for a concrete dam and one for a concrete steel.

Owing to doubts as to the stability of the dams as planned in either the concrete steel, owing to conditions met with entirely different from storage dams, mainly that of the flood height in the Wallhonding River, it was directed to readvertise for bids, which was done and bids were again received on October 9th, both on plans prepared in this office, and a special concrete steel plan submitted by the W. H. Schott of Chicago.

Owing to the cost as shown by lowest bids, all bids were rejected and the work again readvertised.

#### SIX MILE DAM.

Plans were prepared in this office after thorough surveys as to choice of location, and a design adopted which incorporated the old structure as a part of the new, the new concrete work being built against and on the down stream side and over the top of old dam, both old and new parts being anchored together as well as anchored to the rock bottom so far as the rock extends within reach and further, by anchoring to a pile foundation.

This plan provides for a very substantial and permanent structure with the minimum amount of concrete masonry possible to insure stability and overcome the defects in the old dam.

At the same time specifications were prepared for such repairs on the old dam as would prevent leakage only, and bids invited in connection with the bids for a new dam.

On November 14 the following proposals were received. The amounts noted include the estimated amount of cement required as furnished by the State, which was added as \$3,856.00.

Wm. Brode .....	\$33,626.00
Westhafer Cons. Co.....	32,498.00
J. N. Kissner.....	22,806 00
W. H. Schott.....	24,456.00
Same, Special plan .....	20,744.00
Engineer's stimate .....	23,198.50

#### REPAIR SIX MILE DAM.

Two bids were secured for the repair work as specified, both in excess of \$7,000, which is out of proportion to the benefits so long as only the leakage is prevented and nothing added to the permanence of the old dam. The difference



between the cost of an entire new masonry dam and a combination of old and new at the prices bid, is about 9,000, so that the old dam has a value of that amount when used in the combination shown in plan.

The foregoing covers all the improvement work on which bids have been invited or contracts entered into for construction.

#### 1907 WORK.

Referring to the probable extent and class of work in contemplation for 1907, the appropriation available for the new work may vary to the extent of the estimated outlay for the new reservoir at State Mill and for the proposed Six Mile Dam, both of which improvements are now pending the action of Board of Public Works.

In either event there will no doubt be funds available to carry on the masonry work of locks, aqueducts and minor canal structures from Akron to Trenton which would cover that portion of the canal over which the Tuscarawas Co. coal traffic would be carried.

It would seem a good policy to contract the dredging on such portions of the Akron Trenton section as are now in the worst condition as to depth of channel, in order that on the completion of the locks, at least partial use might be had of the canal for the benefit of shippers and boatmen.

The dredging is a class of work quite unlike any other part of the construction work.

#### DREDGING.

In the first place, dredging machinery, as built for general work as ditches, rivers and harbor work, etc., is not adapted to our canal work on account of the limitations in width and height, necessitating a width to pass through the locks and of a height sufficient to pass under bridges having only ten feet of headway.

Therefore, contractors, with few exceptions, must bid on our work without equipment, intending if a contract is awarded them, to have a dredge built, which requires months of time. It is something of a problem to determine the length of canal or yardage that should be allowed any one contractor, or which would justify a contractor to purchase plant and engage in the business with an investment of about \$10,000.

I am of the opinion, however, that contracts of 150,000 cu. yds. would justify contractors in taking contracts of the quantity mentioned.

I am also of the opinion that it would be a profitable investment for the State to own and operate at least one modern dredge on the Ohio Canal.

The State would be justified in such purchase where a contractor would not, inasmuch as the State after the canal improvement is entirely completed will have frequent occasion to use it at bars, slides, etc., while a contractor would have the plant on his hands without prospect of further work where it could be advantageously used, and would necessarily have to rebuild for use on general dredge work.

It is evident that for any considerable amount of dredging to be done in 1907, contracts should be made as early as possible to enable at least a part of the dredges to be built in time to get into operation by next summer.

During the past summer and fall, I have had the canal cross sectioned from Lock 22 north of Akron to a point about one-half way between Navarre and Bolivar.

The quantities are not computed, but that could soon be put in shape for estimating purposes.

## PLANS FOR 1907.

As soon as masonry operations are at least in part suspended on account of weather, I will organize a party for a survey of locks south of Akron and preparation of plans for the rebuilding of such as may be designated as a part of the work for next season.

The construction of the proposed reservoir near State Mill, connecting with Long Lake, requires comparatively a small amount of earthwork to impound the required depth of water, and operations toward the construction of the embankments and clearing the land to be flooded can be begun early in the spring, or as soon as the purchase and occupation of the land can be accomplished.

In making estimates of the amount of new construction work which may be done with the funds available for 1907, allowance must be made in anticipation of higher prices than has been current during the past half year when our contracts were made.

The lock work now under contract is being done at extremely low prices, and the scarcity of labor and consequent increase of laborers wages coming on in the latter part of the season, has been one of the contributing causes in the delay in completing contracts, here as well as all over the country, so that many contractors having unfinished contracts on hands, as well as the scarcity of labor likely to be a continuing factor, will have the effect of lessening the number of bidders, as well as causing a material increase in prices bid on our new work. It will expedite our work under these unfavorable conditions to let the work in smaller contracts, and be governed largely by the amount of equipment possessed by the contractors and the average monthly progress he is likely to make under labor conditions, as we may expect them next year.

Every contractor, large or small, has a certain following or organization which he can bring to new work and which he can probably maintain and increase from such local labor as is available in the vicinity of the work.

The Board and the engineering department should be the judges of the size of contracts awarded, after acquainting themselves with the facts as to the contractor's previous experience, responsibility and plant for prosecuting the work.

I hope to be able to report to you in the early part of January respecting the condition of the masonry and other structures between Akron and Trenton which require either rebuilding or repairing and estimate of cost of same."

J. A. HANLON.

## REPORT T. D. PAUL, ENGINEER IN CHARGE, CANAL CLEVELAND TO PORTAGE LOCKS.

"I herewith submit my report of the work done under my supervision on the north end of the Ohio Canal during the year ending Nov. 15th, 1906.

We have constructed four additional sluice gates and one waste way 60 feet long with reinforced concrete tow path bridge.

The five mile lock No. 41 was entirely taken out and rebuilt. It was necessary to take out the bed timbers and replace them 18 inches lower than they were. Ever since the removal of the 3 mile lock the five mile lock has been too shallow for even a four foot canal; and to get a five foot depth, the only feasible plan was to lower and rebuild the entire lock.

The cost was \$10,750.00 exclusive of the gates. The dam at Brechsville on 17 mile feeder was entirely rebuilt and the old part of the Peninsula dam was also taken out and rebuilt.

At the Peninsula feeder new head gates, sluice and a tow path bridge were built of stone and concrete in a very substantial manner making a better



and more efficient arrangement than it ever was before. This will ensure a better water supply from Peninsula, north. Locks 27, 34 and 45 were also rebuilt during the year.

Gates have been completed for all the locks from 22 to 42.

Eleven miles have been dredged under a contract with D. E. Sullivan & Son from Brecksville to one mile south of Lock 41. The amount removed was 71,355 cubic yards at 15 cents per yard.

They have had a dredge constructed at Marion, Ohio.

It is a much better machine than the State dredges which were built over 30 years ago. A still better dredge could be built by the State; and in my opinion no better investment could be made, than to supply the Northern Division with dredges of proper construction, and place them in service by our own forces.

We have raised the County bridges over the canal at Alexander, Tinker's Creek, 12 mile lock, South Park and Zimmerman's, so that all the County bridges in Cuyahoga County will have 10 feet clearance.

Considerable time had been devoted to a survey of the canal; and canal lands through Akron. A base line has been laid out conforming to the canal lines; and measurements have been made with steel tapes, corrected for strain and temperature.

Angles have been checked very carefully; and the whole connected with street and block lines; which have also been surveyed and marked; so that the survey can always be retraced.

Considerable measuring has been done to locate the property lines permanently.

The canal property in Akron was merely taken by the State and there are no deeds. Nor were there any maps or plans made showing what was taken. The evidence on which we must base our title, is largely the occupation; every year encroachments are made, and evidence obliterated by adjoining owners. A complete survey should have been made years ago, as the lands are quite valuable and considerable has been lost. During the coming season we expect to finish the work in a very complete manner."

I respectfully request any specific directions that you may be pleased to offer in all matters pertaining to the conduct of the affairs of our department, promising that I will, in the future as in the past, exercise my best judgment and energies in carrying out your wishes.

I shall continue to do myself the honor of addressing to you special reports in the interests of our department on any matter requiring the particular attention of your Board.

It is my intention to request the honor of a conference in the near future for the special purpose of discussing ways and means for such a reorganization of your department as it may appear will best subserve the interests and economical management of our joint department, and the possibility of amending some of the old laws now regulating it that may seem cumbersome.

It seems to me that we are about to enter upon a new era in canal affairs requiring regulations more in accord with modern ideas of economics.

I beg to add in this connection that the management of the public works is greatly restricted by the necessity for close observance of certain laws and regulations many of which date back to the time when the public



works were first inaugurated, and which, though quite inapplicable to present methods and conditions, have never been repealed, but still remain in force.

In accordance with the provisions of law, the Board have appointed and have now in their employ, six superintendents of repairs, two on the Northern Division of the Ohio and Erie Canal, one on the Southern Division of the Ohio and Erie Canal, and three on the Miami and Erie Canal.

Under the rules and regulations of the department, each Superintendent of Repairs renders an annual report of his sub-division, giving a description of repairs and all new work done during the fiscal year, with a statement of the cost of maintenance, the name of each section and dredge foreman, with postoffice address and time of service of each in the capacity designated, and such other information relating to the particular territory under his charge as may be deemed of interest.

These reports have been rendered and are herewith submitted and made a part of this report for the year and to them I invite your careful attention, particularly to the statements contained therein showing the amount and character of the work done under the direction of each of said superintendents during the year, and demonstrating in many instances the bad physical condition of the canals and the need of general improvements and betterments. In fact, these reports reveal the undeniably worn out condition of the public works and the physical impossibility of making a creditable showing for the department, no matter what meritorious purpose the Board and its officers may exert and bend their best efforts and energies to accomplish.

It is expected that as soon as the improvements now under contemplation are made, there will no longer be the constant necessity for these many repairs, which require a large expenditure of money and consequently do so much to swell the cost of maintenance, and that your officers will therefore be able to give a greater amount of time and energy to other and more profitable fields of work, securing better results from a business point of view.

In concluding, it again gives me much pleasure to commend the integrity, energy and faithful service of the several officers employed in your general office and on the line of the public works, and to extend to your honorable Board, my thanks and the assurance of my appreciation of your kind consideration and encouragement at all times rendered me in the discharge of my official duties.

I also beg the pleasure of acknowledging in this report the kind and courteous treatment of the officials of the State Auditor's office and of the Attorney General's department, as well as my obligations to his Excellency, Governor Harris, for the kindly treatment he has always accorded me and the absolute fairness and liberality with which he has

considered the needs of the department so far as it lay within his power to do so.

Respectfully submitted,

CHAS. E. PERKINS,  
*Chief Engineer Public Works of Ohio*





SUB-DIVISION REPORTS  
OF  
SUPERINTENDENT OF REPAIRS  
MADE TO THE CHIEF ENGINEER

1906

(63)



## SUB-DIVISION REPORTS.

AKRON, OHIO, Dec. 20, 1906.

CHAS. E. PERKINS, *Chief Engineer Board of Public Works, Columbus, Ohio.*

SIR: — I hereby submit my fourth annual report of repairs made on Sub. Div. No. 1, Grand Div. 1, Ohio and Erie Canal during the fiscal year ending November 15, 1906.

CHAS. HATCH,  
*Superintendent of Repairs.*

This subdivision extends from Cleveland to Navarre, a distance of seventy-two miles.

## FOREMEN.

Charles Stebbins, foreman Repair Boat No. 1.

\*J. I. Johnston, foreman Repair Boat No. 2.

John Moore, foreman Repair Boat No. 3.

James Roach, foreman of dredge.

## LOCKS.

Kettlewell locks received two bucking beams, old stone miter sill left in and faced up with 4 x 8 timbers, lower miter sill put in and grouted also 35 x 15 ft. of lower end was sheeted with 2 in. plank.

90 ft. of the old stone wall left in on the tow-path, also 60 ft. in berm side was trimmed off from 1 to 4 in., then pointed and grouted.

The lock was cleaned of debris left in by contractor and pumped out 5 times during the season on account of heavy rains.

## RED LOCK.

Red Lock received 2 new bucking beams, steel miter sill put in at upper end of locks and grouted, 18 x 15 ft. at upper end was sheeted with 2 in. plank, 50 x 15 ft. of lower chamber of locks was sheeted with 2 in. plank, 70 ft. in berm side and 60 ft. in tow-path side of the old walls were trimmed off from 1 to 5 in.

The lock was cleaned of debris left in by contractors, and water pumped out 3 times on account of springs.

## LOCKS.

Wallace lock received 2 new bucking beams at upper end, steel miter sill put in at upper end. 42 x 15 ft. of lower chamber was sheeted, 16 x 15 ft. of lower chamber was sheeted with 2 in. plank.

65 ft. on berm side and 50 ft. in tow-path side of old stone wall was trimmed off 2 courses from 1 to 4 in., it was then pointed and grouted, the sand had to be wheeled in wheel-barrows across old river bed and hauled with 4 horses across plowed ground.

The lock was cleaned of debris left in by contractors.

Boston Locks received 2 new bucking beams at upper end, steel miter sill at upper end and grouted 18 x 15 ft. at upper end was sheeted, 40 x 15 ft. of lower chamber was sheeted with 2 in. plank.

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\*J. I. Johnston retired from the State's service just prior to the end of the present fiscal year.



Ninety ft. on tow-path side and 70 ft. on berm side of old walls were trimmed off 2 courses from 1 to 5 in., it was then pointed and grouted.

Lock was cleaned of debris left by contractors.

Lonesome Lock received 2 new bucking beams at upper end steel miter sill at upper end and grouted. 40 x 15 ft. of lower chamber was sheeted, 18 x 15 ft. of upper end was sheeted with 2 in. plank.

Ninety ft. of tow-path side and 90 ft. of berm side of old stone walls were trimmed off three courses from 1 to 6 in., it was then pointed and grouted.

Lock was then cleaned of debris left in by contractors and water kept pumped nights.

Peninsular Feeder Lock received 2 new bucking beams at upper end, steel miter sill at upper end 60 x 15 ft. of lower end of chamber was sheeted, 16 x 15 ft. of upper end of chamber was sheeted with 2 in. plank, lower miter sill put in and grouted, 90 ft. on berm side and 110 ft. on tow-path of old stone walls were trimmed off 2 to 3 courses from 1 to 5 in., then pointed and grouted.

Lock was cleaned of debris left by contractors and kept water pumped nights.

Peninsula Lock received 2 new bucking beams at upper end, lower miter sill put in and grouted. 115 x 15 of lower chamber was sheeted with 2 in. plank.

Lock was cleaned of debris left in by contractors.

Johnny-cake Lock 50 x 15 ft. at lower chamber sheeted, 16 x 15 ft. at upper end of lower chamber sheeted, 16 x 15 ft. at upper end of lock was sheeted with 2 in. plank.

Seventy ft. on tow-path side, 60 ft. on berm side of old stone walls were trimmed off 2 to 3 courses from 1 to 4 in. in depth, then pointed and grouted.

#### CANAL BANKS RAISED AND REPAIRED.

A concrete sluice on 8 mile level (north of pumping station) went out causing a break in bank 80 ft. long, 40 ft. wide, 20 ft. deep.

Fifty sticks of dynamite were used to clear away debris of concrete sluice.

On 8 mile level over culvert a retaining wall 3 x 12 x 6.

On 8 mile level on berm side a retaining wall 35 x 24 x 10.

After finishing work culvert broke and work all had to be done over.

On 11 mile level at ends of culvert tow-path side 36 x 18 x 9.

On 11 mile level a retaining wall berm side 36 x 8 x 7.

#### WASTE WEIRS AND TUMBLES.

Built wooden trunk 100 ft. long, 8 ft. wide, 4 ft. high around 5 mile lock to carry water to manufacturers while lock was being built.

New concrete waste weir at 8 mile lock was cut down 15 in.

New concrete waste weir at 11 mile lock was cut down 12 in.

Waste weir at Lock 10 (Akron) filled.

Waste weir at Lock 5 (Akron) lowered.

Waste weir at Lock 2 (Akron) lowered.

New concrete waste weir at Lock 1 (Akron) lowered.

Waste weir at Lock Wolf Creek grouted.

#### TOWING BRIDGES.

Towing bridge on Long Pinery, new plank put on.

Towing bridge at Peninsula, 2 stone abutments 15 ft. long, 9 ft. high with concrete covering 1 ft. thick, 12 ft. wide, 11 ft. long, also reinforced with steel rails and wire netting.

## DAMS.

Brecksville dam was repaired with 3 one ft. timbers, also filled with concrete and planked, length 150 ft.

A false dam was built at Brecksville 150 ft. long, 4 ft. high.

Peninsula Feeder Dam was torn out at west end, a distance of 45 ft. and repaired with 1 ft. sq. timbers which were 3 timbers high in front, 2 timbers high in back, it was then cross tied with 4 x 12 timbers 12 ft. long, paved with stone and graveled.

A false dam built 75 ft. long, 5 ft. high.

## FEED GATES.

At east end of Peninsula the old flood gates and stone abutments were torn out and relaid. The walls are 4 ft. thick, 12 ft. long, 12 ft. high, also 2 new flood gates.

At upper end of Peninsula Feeder 2 new concrete walls were built, one 3 ft. thick, 16 ft. long, 12 ft. high; one 3 ft. thick, 28 ft. long, 12 ft. high; one new feeder gate.

## DREDGES AND BOATS REPAIRED.

State Boat No. 1 repaired as follows: 32 new floor timbers, new dunage floor, 26 new carlin and new gravel deck, new canvas in stern deck.

Boat scraped and 3 coats of paint, also 2 coats on cabins, new nails.

## AQUEDUCTS.

Eight mile aqueduct was cleaned of debris left in by contractors, put in flood gates on berm side.

Twelve mile aqueduct was cleaned of debris left in by contractors, twice during summer.

Peninsula aqueduct repaired as follows: new plank and concrete at north end, timber for gate to rub against, cut holes in stone for gates and concreted around timber, timber put from walls to top of aqueduct to clear tow-lines, and built concrete blocks to hold railing at end of towing bridge.

## MISCELLANEOUS.

Removed bars north and south of 8 mile lock left by contractors.

Removed 2 bars at culvert south of 8 mile aqueduct dams, were 3 ft. high, 40 ft. long.

Removed 2 dams on 11 mile level.

Removed 2 dams at Kellog's culvert 3 ft. high, 40 ft. long.

Removed 2 dams at 12 mile lock.

Removed 2 dams at 14 mile lock.

Removed 1 dam at 17 mile lock.

Removed 2 dams at Kettlewell.

Removed 2 dams at Red Lock.

Removed 2 dams at Wallace.

Removed 2 dams at Boston.

Removed 1 dam at Feeder.

Removed 1 dam at Peninsula.

Built dam across canal north of pumping station 50 ft. long, 4 ft. high, where sluice went out so American Steel & Wire Co. could get water.

Helped haul lumber and cement to repair sluices and culverts on 8 mile levels.

Boated dirt to fill up in front of 1st and 2nd sluices south of 5 mile lock.

When locks were first filled from Lock 17 to Cleveland had to keep men cleaning paddles and tumbles.

Boated dirt and gravel to stop leaks on 8 mile level.

Broke ice 3 days in Feb. on 8 mile level trying to get boat to 17 mile lock but could not.

Took Chief Engineer, Board of Public Works and State Senators on an inspection trip from 17 mile lock to Cleveland.

Raised sunken boat "Two Sisters", loaded with logs. Raised State Boat No. 2 and House Boat on peninsula level.

Cut brush and posts to build fence 300 ft. long, 3 ft. high, around "Devil's Elbow," to hold dredge dirt from going into river.

Unloaded 120 sacks of cement at Brecksville and used same in pointing and grouting locks.

Unloaded 1 car crushed stone at Peninsula for feeder walls.

Unloaded 120 sacks of cement at Boston for grouting locks.

Unloaded 7 iron pipes at Boston used at sluice.

Built 2 dry stone walls on each side of Peninsula feeder 5 ft. high, 30 ft. long, pointed them.

Washed 17 mile lock feeder 3 times.

Cleaned out feeder at Peninsula down to shale rock 75 ft. long, 2 ft. deep, 10 ft. to 15 ft. wide and piled back of feeder walls.

Grouted back of all the Hollow Quoins from 17 to Peninsula.

All of the foregoing work has been done between Cleveland and the Portage Lock, and charged by monthly abstracts accounts to the Canal Improvement Fund that was made by the Legislature extending from Cleveland south.

Lock was unwatered with steam engine.

All locks cleaned from 4 to 16 (Akron).

Coping stone set back at Lock 1 (Akron).

Navarre lock was repaired with brick and cement cribings, torn down and rebuilt and debris removed.

Lower lock at Massillon, cribings were rebuilt and debris taken from bottom.

Upper Massillon lock, cribings were rebuilt and debris cleaned from bottom.

Fulton lock repaired with bricks and cement, cribings rebuilt and debris cleaned from bottom.

Clinton Locks repaired with brick and cement, cribings rebuilt and debris cleaned from bottom.

Wold Creek Lock cribings rebuilt, blocks of timber used to fill in where stones have fallen out, debris cleaned from bottom.

#### LOCK GATES.

Fulton Lock, new fender plank on gates, one new balance beam on upper gates.

Wolf Creek, new fender plank on lower gates.

A distance of  $2\frac{1}{2}$  miles between 14 and 17 mile locks was levelled off after dredge.

Bank Bell Line Bridge to Mud Run Culvert was raised with gravel and cinders.

Banks around Summit Lake about  $\frac{3}{4}$  of way of Lake frontage raised with stone, broken sewer pipe, gravel and cinders.

Banks at Long Lake Channel between river and feeder bridges  $3\frac{1}{2}$  ft. high, 25 ft. wide and 150 ft. long, gravel and cinders.



## CANAL BANKS RAISED AND REPAIRED.

Navarre level tow-path raised 700 ft. long, 1 ft. deep.

Massillon level tow-path raised 3000 ft. long, 1 ft. deep.

Massillon level berm-bank raised 200 ft. long, 10 ft. high.

Fulton level tow-path raised 4150 ft. long, 1 ft. high.

Fulton level berm-bank raised 300 ft. long, 10 in. high.

Wolf Creek level tow-path raised 1250 ft. long, 1 ft. high.

Summit level south end tow-path raised 500 ft. long, 8 in. high.

Culvert on Fulton level was cleaned of debris and wing wall repaired.

Two culverts on Fulton level were cleaned of debris and wing wall repaired by placing old stone back in place.

Culvert on Wolf Creek level was cleaned of debris.

## WASTE GATES.

New waste gates placed 1 mile north of Massillon, 12 ft. wide, 12 ft. wide.

Concrete main walls were 24 ft. long, 12 ft. high.

Thickness of main walls  $3\frac{1}{2}$  ft. at bottom,  $2\frac{1}{2}$  ft. thick on top.

Wing walls 16 ft. long, 12 ft. high, 2 ft. thick.

Conduit to river 24 ft. long, 12 ft. wide.

Waste gates at Trenton bridge repaired and 2 ratchet timbers and ratchets placed in position.

Waste gates at Cemetery bar new stone and ratchet.

New bridge at Lock 15 (Akron).

New bridge at Lock 16 (Akron).

## DAMS.

Dam at Lock 21 (Akron) was cleaned of debris.

Dam at Tuscarawas was repaired.

Dam at Millport feeder was cleaned, new timbers put in, sheet piled and filled with gravel and backed up with gravel.

Dam at Fulton feeder repaired with 40 yards stone, 60 yards gravel, new timbers put in and sheet piled.

Dam at Clinton Creek was repaired with 75 yards of gravel and stone put in place.

Dam at Wolf Creek level repaired with 80 yards of gravel and stone replaced.

## DREDGING.

On Division No. 2 195 cubic yards hand dredged.

## BARS REMOVED.

Bars removed at sand bridge 40 cubic yards.

Bars removed at Campbell bridge 30 cubic yards.

Bars removed at Guard Lock 50 cubic yards.

Bars removed at Taylor St. 50 cubic yards.

Bars removed at Portage 25 cubic yards.

Bars at Warmington bridge taken out 3 times, 75 yards removed.

Bars south of Warmington bridge taken out 3 times, 80 yards removed.

Bars at Cemetery bar bridge taken out 4 times, washed through sluices into river, 4000 yards of gravel.

Bars on Massillon level removed by hand dredge as follows:

South of Fulton Lock 25 yards.

At Millport Feeder 36 yards.

At Bridgeport bridge 47 yards.

At Bridgeport waste weir 45 yards.

At Cherry St. bridge 36 yards.

At South St. bridge 28 yards.

At Russell's shops scraped and wheeled 3 times, 15 ft. long, 40 ft. wide, 2 ft. deep.

Bars on Fulton level by hand dredge as follows:

South of Clinton lower lock 32 yards.

At Clinton Creek 120 yards.

At Clinton Bridge 16 yards.

At Fulton Bridge 28 yards.

South of Fulton bridge 12 yards.

North of Fulton bridge 26 yards.

Bars on Wolf Creek level by hand dredge as follows:

At Wolf Creek Lock 24 yards.

At Nile bridge 18 yards.

North of Red bridge 19 yards.

At Red bridge 22 yards.

South of Red bridge 27 yards.

Halfway bridge 26 yards.

#### WEEDS AND BRUSH CUT.

Brush cut a distance of 2 miles on 8 mile level on berm bank.

Brush cut a distance of 2 miles on 8 mile level on tow-path.

Brush cut a distance of  $\frac{1}{2}$  mile on 14 mile level on tow-path.

Brush cut a distance of 2 miles on Long Pinery on berm bank.

Brush and weeds were cut from Lock 1 (Akron) to feeder, also around basin at Lock 1 (Akron).

Brush cut on tow-path on Navarre level.

Brush cut on tow-path on Massillon level.

Brush cut on tow-path on Fulton level.

Brush cut on tow-path on Wolf Creek level.

Brush cut on tow-path on Summit level.

#### GRASS CUT.

Grass cut twice from Wolf Creek Lock to feeder and once from feeder to Salt Works, also in Portage Lakes and channels twice during summer.

Seventy-seven miles of grass cut on Division No. 3 from channels.

Twelve miles of grass cut on Division No. 3 from feeder.

#### FEEDERS.

Grass cut in channel entire length of Tuscarawas Feeder.

Millport Feeder bank was raised 400 ft., also 3 breaks filled, 25 ft. long, 7 ft. deep; 30 ft. long, 6 ft. deep; 22 ft. long, 5 ft. deep.

Fulton Feeder banks were raised 800 ft., bars wheeled out 3 times and break filled, 50 ft. long, 8 ft. deep; 35 ft. long, 6 ft. deep; 30 ft. long, 7 ft. deep; 25 ft. long, 5 ft. deep; 20 ft. long, 8 ft. deep; 40 ft. long; 4 $\frac{1}{2}$  ft. deep; 45 ft. long, 6 ft. deep.

Mucker also repaired.

Furnace Run and Sand Run aqueducts were cleaned of debris twice during the year, rods replaced on Furnace aqueduct.

Wolf Creek aqueduct was cleaned of debris twice, also caulked with saw-dust and gravel.

## MISCELLANEOUS.

Boated one car load of lumber from Massillon to Akron.  
 Took steam dredge and mucker to Salt Works.  
 Boated 16 mucker loads from dredge at Salt Works to tow-path.  
 Raised and relaid side-walk on State ground on Exchange St.  
 Took out spiles in Basin at Lock 1 (Akron).  
 Raised hand dredge at R. R. bridge.  
 Removed stone from guard lock.  
 Unloaded two boat loads of gravel at Lock 1.  
 Boated 120 loads of mud from bank put there by steam dredge.  
 Boated 6 loads of cinders for tow-path.  
 Boated 2 loads of broken sewer pipe for tow-path.  
 Boated 2 loads of brick and chuck for tow-path.  
 Boated 1 load of dirt for dam at Lock 1.  
 Boated 3 loads of dirt for dam at Mud Run.  
 Boated 1 load of sewer pipe at Mud Run Culvert.  
 Boated 4 lots of lumber and cement at Mud Run Culvert.  
 Raised 100 ft. of dock south of float bridge.  
 Rolled all stone out as far as we could reach back to tow-path for protection around Summit Lake tow-path.  
 Dug out old wooden culverts at Locks 4, 5, 9 and repiled after new ones were put in.  
 Took down derrick at Lock 11 and loaded into wagons.  
 Took down steam pump at Mud Run and took to Akron.  
 New valve house and foundation at East Reservoir.  
 Tore out old waste weir at Lock 1 and replaced with new concrete weir and bridge.  
 New concrete retaining wall from waste weir north to Lock 1 (Akron).  
 Helped to put in dam at Lock 1 also dams at Mud Run Culvert.  
 Put in dams at Locks 1, 2, 3, 7 and 8 Akron.  
 Put in flumes at Locks 2 and 8 Akron.  
 Filled breaks on Massillon level 65 ft. long, 12 ft. deep.  
 Filled breaks on Fulton level 60 ft. long, 10 ft. deep.  
 Put in new revetments under 3 bridges on Summit level.  
 Put in new revetments under 2 bridges on Massillon level.  
 Put in new revetments Fulton level 300 ft. long.  
 Put in new revetments Mile bridge on Wolf Creek level.  
 Boated 2 loads of gravel from Cemetery bar to Akron.  
 Boated 1 load of lumber from Dover to Barberton.  
 Boated 27 loads of dirt from steam dredge.  
 Took 7 trees out of canal.  
 Raised 3 sunken boats.  
 Took stone, etc., out of bottom of canal on following levels: Navarre, Massillon, Fulton, and Wolf Creek.

## WORK DONE BY STEAM DREDGE.

On Massillon level, No. of yards none.  
 On Massillon level, raising tow-path 6455 ft.  
 On Fulton level, No. of yards from bars, 400.  
 On Fulton level, raising tow-path 6835 ft.  
 On Wolf Creek level, No. of yards from bars, 200.  
 On Wolf Creek level, raising tow-path 1110 ft.  
 On Summit level, No. of yards from bars, 4725.



On Summit level, raising tow-path 3690 ft.

Report of repairs needed on Ohio Canal from Lock No. 1, Akron to Navarre Lock.

Tow-path and berm banks riprapped on Summit Level.

New bridge at south end of Summit Lake in place of old floating bridge.

Towing path raised from Waterloo Bridge to Wolf Creek Lock.

Berm bank raised from Mud Run south, a distance of 600 ft.

New high water waste-weir south of Summit feeder.

One pair of waste-gates 100 ft. north of Wolf Creek Lock.

New walls and new gates at Wolf Creek Lock.

Banks raised on Wolf Creek Level.

New abutments under aqueduct on Wolf Creek level.

One new sluice south of Red Bridge on Wolf Creek level.

One new sluice north of Clinton Locks on Wolf Creek level.

Brush cut on tow-path and berm bank on Wolf Creek level.

New walls and new gates at Clinton Locks.

New bridge on Short level at Clinton Locks.

New change bridge at Clinton lower lock.

One new bridge at Clinton Creek dams.

New timber on concrete dam at Clinton Creek.

New walls and 4 new gates at Clinton guard lock.

Tow-path and berm banks raised on Fulton level.

Brush cut on both sides of canal on Fulton level.

Dredging from guard lock to Fulton Lock.

One new sluice 1 mile south of Clinton.

One new sluice 200 ft. north of Fulton Lock.

One new high water waste-weir 1 mile north of Fulton.

New walls and new gates at Fulton Lock.

**New channel and tumble wall around Fulton Lock.**

Tow-path and berm banks raised on Massillon level.

Brush cut on both sides of canal on Massillon level.

One new sluice at Millport on Massillon level.

One new high water weir at Butter bridge, Massillon level.

One new high water weir at Bridgeport, Massillon level.

Tow-path riprapped from Massillon to Willow Bank, Massillon level.

Dredging from Fulton Lock to Massillon Locks.

New revetment on tow-path under Main St. bridge, Massillon.

New gates and new miter sills at Massillon Locks.

Tow-path raised on Navarre level.

Brush cut on towing-path and berm side of canal.

New sluice at Cemetery Bar.

New retaining wall on berm side at Cemetery Bar, and aqueduct across top of canal from berm side to river.

New sluice  $\frac{1}{2}$  mile north of Navarre.

New walls and new gates at Navarre Lock.

New bridge at high water waste weir in Navarre.

Dredging from Massillon Lock to Navarre Lock.

#### FEEDERS.

Channel in Fulton feeder made wider and deeper.

Banks raised and made wider.

New waste weir in dam.

New trunk at outlet of Millport feeder.

Channel made deeper and wider.

New feed gate and waste gate at head of feeder.

I have given the above statement of repairs needed as it has been the Superintendent's usual custom, with the understanding that all of their needed improvements will be taken care of by the general improvement now under contemplation for the coming year by authority of a Special Improvement appropriation made for that purpose by the Seventy-seventh General Assembly.

I would respectfully recommend the buying new improved machinery for new dredge, constructing the hull by our own carpenters, they being boat builders. Knowing well it will be more serviceable and better built than by contract.

Summit level is nine miles long, three of which it is impossible to land dirt on either side, said level is never drawn, and dredge I believe could be better operated by Chief Engineer with better success than by contract.

In regard to the proposed new reservoir I consider it a necessity and should be constructed at once, as the leases for water rents are becoming so great that the present reservoir system will not furnish a sufficient supply, as in January 15, 1904, the supply of water in our present reservoir was entirely gone.

## OFFICE OF THE SUPERINTENDENT OF REPAIRS.

COSHOCOTON, OHIO.

MR. CHAS. E. PERKINS, *Chief Engineer, Columbus, Ohio.*

DEAR SIR:—I have the honor to submit to you herewith my eleventh annual report of repairs made and labor performed on the Second Sub-division of the Northern Division of the Ohio Canal, during the fiscal year ending November 15th, 1906.

This sub-division includes the following portions of the Ohio Canal from Navarre on the north to the outlet lock on the Muskingum River at Dresden on the south, a distance of 81 miles; the Walhonding feeder from Roscoe to dam on Walhonding River, a distance of six miles; the Trenton feeder, three miles in length and Sugar Creek, three miles in length, making in all 93 miles.

L. P. Wilson, Foreman of Repair Boat No. 1. Newcomertown, Ohio, 21 years service.

A. L. Norman, Foreman of Repair Boat No. 2, Roscoe, Ohio, 6 years service.

There are on this sub-division 2 repair boats; one boarding boat, one steam dredge, one steam pump, one first-class derrick complete, four wheel scrapers and four hours. We also have numerous tools, and appliances, an inventory of which has been sent to you on a separate blank by the foreman of the several sections.

## AQUEDUCTS.

There are four aqueducts on this sub-division:

Bolivar aqueducts, 3 spans, total length 170 feet.

Orange aqueduct, 1 span, total length 30 feet.

Roscoe aqueduct, 5 spans, total length 310 feet.

Dresden aqueduct, 3 spans, total length 140 feet.

## CULVERTS.

There are 37 culverts on the sub-division of which the following are in good condition:

One at Coalport on Roscoe level.

One at Lewisville on Lewisville level.

Two " on White Eyes level.

One " on Newcomertown level.

One " on Lock Seventeen level.

One " on Lock Port level.

The above are all large culverts having 10 feet arch. The remainder are 4 feet and 5 feet arch and are either submerged or in very bad condition.

## DAMS.

There are four dams:

One at Zoar on Tuscarawas River.

One near Trenton on Tuscarawas River.

One six miles west of Roscoe on Walhonding River.

One at Dover on Sugar Creek.

## LOCKS.

There are 28 lift locks with an average lift of 8 feet and 4 guard locks making in all 32:



I am pleased to be able to state that, while we had a great amount of rain during the season, delaying our work to some extent, there were no serious floods and no damage done with the exception of 250 lineal feet of towing path a mile south of Trenton which was damaged to such an extent, by an ice gorge which formed in the river at that point, that it required 200 piling from 20 to 23 feet in length, and 400 cu. yds. of stone to repair and protect it. The stone used were taken from the lower lock now being built at Trenton (No. 16). Also a few small breaks.

A great source of annoyance to us during the entire year, and which was never experienced by us before, was the scarcity of laborers. It was impossible to get as many as we needed, a part of the time the Foremen having only two or three men when they should have had from six to ten to do the necessary work, and think it probable that foreign labor will have to be used next year.

A matter to which I wish to call your attention is that I have only two Foremen to look after 81 miles of main Canal and 12 miles of feeders, making in all 46 miles for each Foreman, which is entirely too much for one Foreman and crew to look after and keep in proper repair. I therefore recommend that there be another Repair Boat built and another Foreman appointed for the coming year. We should also have a Dredge, as the lower portion of my division from Newcomerstown south has become very shallow and should be dredged at once. Of course we remove the bars from time to time, but the entire Canal is gradually filling up, not having been dredged out for a number of years. The old dredge was taken to Akron three years ago.

The only new structures on my division are the out-let lock at Dresden connecting the Canal with the Muskingum River at that point. The work was done by contract by Clifton Bros., of Zanesville, Ohio. And lock No. 16, at Trenton which is now nearly completed. The above mentioned improvements were done under an act and paid for by an appropriation made by the last General Assembly for the improvement of the Ohio and Erie Canal between Dresden and Cleveland.

#### REPAIRS MADE.

##### Aqueducts.

The hooding of both chords of Bolivar aqueduct was repaired.

The floor of Orange aqueduct was respiked and the sides lined up.

Dresden aqueduct received new plank in trunk and new top strips.

The Roscoe aqueduct which is the largest between Dresden and Cleveland is in a very dangerous condition and liable to collapse at any moment. No repairs were made on it as it would be very impracticable to waste money on the old structure, and would recommend that a new one be built the coming season.

#### BANKS RAISED.

Ten mile level south of Navarre.....	335 x 10 x 1	3,350 cu. ft.
Six mile level south of Zoar.....	340 x 10 x 1	3,400 cu. ft.
Two mile level north of Dover.....	480 x 10 x 1	4,800 cu. ft.
Dover level .....	683 x 10 x 1	6,830 cu. ft.
Lock Port level.....	265 x 10 x 1	2,650 cu. ft.
Total number of cu. yds. on Wilson's Division.....		778 cu. yds.
Two mile level south of Newcomerstown.....		240 cu. yds.
Berm bank of Roscoe basin.....		80 cu. yds.
Towing path, Roscoe basin.....		60 cu. yds.
Towing path at Norris' bridge near Dresden.....		60 cu. yds.
Berm bank at Norris' bridge near Dresden.....		30 cu. yds.

On Walhonding feeder near Clark's bridge.....	200 cu. yds.
On Walhonding feeder near six mile dam.....	200 cu. yds.
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Grand total .....	1,648 cu. yds.

BARs REMOVED WITH SCRAPERS.

On ten mile level near Navarre flood gates.....	40 x 1 x 20	800 L. ft.
On six mile level near Barkheimers run.....	375 x 2 x 20	15,000 L. ft.
On six mile level near Hardwidges chutes.....	315 x 2 x 20	12,600 L. ft.
On six mile level near Lock No. 11.....	60 x 2 x 20	2,400 L. ft.
On two mile level below Lock No. 1.....	125 x 2 x 20	5,000 L. ft.
On two mile level north of Schillings bank.....	50 x 2 x 20	2,000 L. ft.
On two mile level at Schillings bank.....	40 x 2 x 20	1,600 L. ft.
On two mile level near waste weir.....	105 x 2 x 20	4,200 L. ft.
On Sugar Creek level near Lock No. 12.....	130 x 2 x 20	5,200 L. ft.
On Lock Port level near mile bridge.....	345 x 2 x 20	13,800 L. ft.
On Upper Trenton level near Simons run.....	65 x 2 x 20	2,600 L. ft.
On Lower Trenton level near Nevings run.....	46 x 2 x 20	1,840 L. ft.
On Port Wash. level near Port Washington.....	90 x 2 x 20	3,600 L. ft.
On Glasgow level .....	96 x 2 x 20	3,840 L. ft.
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Wilsons Div. Grand Total, 74,480 cu. ft. or.....	\$2,758 cu. yds.
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Norman's Division. Bars continued.

On two mile level near Suddams lock sluiced 3 times.....	150 cu. yds.
On Orange level near Orange.....	30 cu. yds.
On Blue Hole level at Flint run scraped out 3 times.....	250 cu. yds.
On Blue Hole level at Turkey lock scraped out 4 times.....	160 cu. yds.
On Lewisville level near Lewisville wheeled out.....	30 cu. yds.
On ten mile level at Roscoe wheeled out.....	200 cu. yds.
On ten mile level at Hack's farm wheeled out 2 bars.....	60 cu. yds.
On ten mile level at Doles run.....	50 cu. yds.
On ten mile level at Coal Port, 2 bars.....	120 cu. yds.
On ten mile level at Conesville scraped out.....	650 cu. yds.
On Dresden level at Adams' Mills scraped out.....	200 cu. yds.
On Dresden level at Norris bridge scraped out.....	60 cu. yds.
On Dresden level at Dresden, 3 bars.....	150 cu. yds.
On Walhonding feeder at Dorsey's run.....	50 cu. yds.
On Walhonding feeder at guard lock.....	150 cu. yds.
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Total .....	2,310 cu. yds.
Total Wilson's Division.....	2,758 cu. yds.
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Wilson's & Norman's Division.....	5,068 cu. yds.
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BREAKS REPAIRED.

On Sugar Creek level six breaks averaging.....	50 x 6 x 20	3,600 cu. ft.
On Dover level near B. & O. bridge.....	40 x 6 x 10	2,400 cu. ft.
On Dover level near C. & M. trestle.....	100 x 6 x 10	6,000 cu. ft.
On Trenton feeder .....	200 x 5 x 10	10,000 cu. ft.
On Dresden level near Norris bridge.....	10 x 6 x 10	600 cu. ft.
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Total .....	22,600 cu. ft.
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## BRUSH CUT.

Brush and weeds on 35 miles of berm bank on Wilson's division were cut, and on 25 miles of towing path, also trees were trimmed.

On Norman's division brush and weeds were cut on 33 miles of towing path, and on 11 miles of berm bank and trees trimmed.

The towing path on Walhonding feeder was moved twice and the berm bank  $2\frac{1}{2}$  miles was cleared of trees and brush.

## CULVERTS.

McGuire's culvert was repaired with cement and brick.

All culverts on the division were cleaned several times.

The big arch culvert at Hights on Walhonding feeder which had become almost submerged, was cleaned out and to drain it, required a ditch 100 ft. long and 6 feet deep.

## DAMS.

The drift was removed from Zoar dam and stone relayed 200 ft. and re-graveled twice during the season.

Sugar creek dam was re-graveled and a 6 x 6 strip run the entire length of sheeting.

The wooden crib at south end of Walhonding dam was re-filled with rip rap stone requiring 75 cu. yds. and the earth wing south of crib was repaired with 84 yds. of rip rap stone and the protection wall 310 feet long was relaid. The drift was removed a number of times during the year.

## DREDGING.

There was no dredging done on this division because we have no dredge, and all the cleaning we can do has to be done with wheelbarrows and scrapers.

## LOCKS.

Zoar lock No. 9 — Mitre-sills repaired and heel posts on both gates were spliced.

Lock No. 10 — Mitre-sills bolted down and floor partly re-sheeted.

Lock No. 15 — One new balance beam and snubbing post.

Lock No. 16 — 2 pairs of new gates, complete.

Lock No. 17 — Both chamber walls dressed off, set back and pointed.

Lock No. 18 — Both chamber walls dressed off, set back and pointed.

Lock No. 20 — One pair new gates, snubbing post and walls set back.

Lock No. 21 — Cleaned of mud and one snubbing post.

Lock No. 22 — One new balance beam.

Lock No. 23 — One new balance beam.

Lock No. 24 — Cleaned of mud and repaired with 250 brick and 9 sacks cement.

Lock No. 26 — One new balance beam.

Lock No. 27 — One new balance beam and 1 pair new gates.

Locks 28, 29 and 30 — We cleaned of mud and silt.

The two outlet locks at Dresden were repaired with new floors, using 10,000 feet of lumber 20 yards of concrete and 8 pilasters were built of cement, one on each wing of each lock making 64 cu. yds.

## SLUICE WAYS.

Turkey Lock sluice way was repaired with 500 paving brick and 2 bbls. cement.

Adams Mills repaired with 400 ft. of 6 x 12 oak lumber.



## WASTE WEIRS.

The two waste weirs on ten mile level south of Navarre were repaired with 45 yards of rip rap stone.

Sterlings, on Dover level, repaired with 2 boat loads of slag.

Sugar creek, stone relaid and graveled 265 feet.

Lock 17 level, stone relaid.

Port Washington level, stone relaid and graveled.

Glasgow level, stone relaid.

Newcomerstown level, stone relaid.

Owing to the scarcity of labor and the need of the stone for protecting the embankment and to open up navigation as soon as possible I had Foreman Wilson and Norman assist Mr. Kissner 20 days in his work on the lock at Trenton for which labor he is to pay the State in full in his final settlement.

White Eyes, ends concreted and re-graveled.

New Adams' Mills, cut down and repaired with stone.

The tumble wall of Lock 15 was repaired with 300 bricks and grouted with cement.

## STONE PROTECTIONS AND PILING.

400 cu. yds. of stone were placed and 200 piling driven to protect the towing path from the encroachment of the river one mile south of Trenton.

The embankment at the north side of the lower basing at Roscoe was protected with 200 cu. yds. of stone, and the towing path on the east side of same basin was protected with 20 yds. of stone.

## REPAIRS NEEDED.

## WASTE WEIRS.

Two waste weirs on ten mile level south of Navarre should be rebuilt with concrete, also one on two mile level near Zoar, and one on six mile level south of Zoar.

The tumble wall at Locks Nos. 8, 12, 13, 15, and 17 should be rebuilt as they are in very bad condition.

## DAMS.

The dam at Zoar and one near Trenton, two of the most important dams on the Division are in extremely bad condition and I would recommend that they be rebuilt early in the coming season.

## SLUICE OR FLOOD GATES.

There should be two sluice ways put in on six mile level south of Zoar, one on two mile level between Zoar and Dover, one on lower Trenton level near Negro Basin, two on Emerson's level at Blue Hole and Flint Run, one on Lewisville level near McGuires, two on ten mile level, one at Roscoe and one at Conesville.

## LOCK WALLS AND GATES.

Locks 8, 9, 13, 15, 17, 18, 20 and 23 should be rebuilt.

Locks 8, 14, 17, 18, 19 and 20 should have 1 pair balance beams each.

The three Wallhonding locks at Roscoe should have 1 pair of new gates each.

## CULVERTS.

At Beasles. Should be rebuilt about 14 feet.

One six mile level near Zoar Middle Run, about 30 feet of lower end should be rebuilt.

At Stone Creek. Two-thirds of it in very bad condition.

Oldtown. Should be rebuilt.

Goshen. The east end should be rebuilt about 30 feet.

On Dresden level near Norris bridge. In very bad condition and should be rebuilt.

## MISCELLANEOUS.

On account of not having a suitable place to keep our tools on the northern part of the division and to house the State Team when working in that vicinity, we erected a building 16 x 32, lumber costing \$150.00 and labor performed by one carpenter and our Foreman. Total cost about \$275.00.

One new coal dock was built at Ninneveh for Hill Bros. Several sunken boats were raised and other miscellaneous repairs made.

The repair boats were out from April 5 to November 5. The working days were 183.

Taking into consideration the condition of our dams, etc., an excellent stage of water has been maintained throughout the season and no complaints have been made. On account of navigation being closed between Akron and Cleveland owing to improvement of the Canal, and the coal strike early in the season, there has been very little boating done, only two mines with four boats and one grain boat running the season.

In my report of last year I mentioned having contracted for 600 cu. yds. of rip rap stone to be delivered on the banks of the Wallhonding feeder to complete the protection of the Wallhonding embankment, but owing to the scarcity of teams and labor the man with whom the contract was made could furnish only 100 cu. yds. leaving 500 cu. yds. to be carried over till next season.

Again I will state that every effort has been made by me to economize and keep the expense of that part of the Canal under my control within the appropriation allowed, and to this end I shall labor while I have the honor to manage and control any part of the Ohio Canals.

Thanking you for the kind and courteous treatment accorded me in the past and for all favors shown me in the discharge of my official duties, I bring my report to a close.

Very respectfully submitted,,

C. H. GEIDEL,  
*Superintendent.*

## OFFICE OF SUPERINTENDENT OF REPAIRS.

PORTSMOUTH, OHIO, Nov. 16, 1906.

CHAS. E. PERKINS, *Chief Engineer of Board of Public Works, Columbus, Ohio.*

DEAR SIR:— I have the honor to submit the Annual Report of repairs made on Sub-Divisions No. 3 and 4, Grand Division, No. 2, Ohio and Erie Canal for the fiscal year ending November 15th, 1906.

Sub-Division No. 3 extends from Dresden side cut to Lockbourne including the Licking Reservoir and Kirkersville Feeder, a total distance of Seventy-three miles. Sub-Division No. 4 extends from Lockbourne to Portsmouth, a distance of eighty-nine and three-fourth miles, including the Columbus Feeder, eleven miles in length, making a total length of one hundred and three-fourths miles.

## FOREMEN.

S. M. Brown, nine years service, Newark, Ohio.

Alex Richardson, twenty-six years service, Carroll, Ohio.

W. H. Kirkendall, twenty years service, Circleville, Ohio.

C. W. Watkins, six years service, Waverly, Ohio.

## PROPERTY AND TOOLS.

There are four repair boats, one steam pump, one pile driver and portable engine to operate the same, two flat boats, one 30 ft. long by 12 ft. wide, the other 22 ft. long by 6 ft. wide, and 20 in. deep with two sets of oars, the latter boat to be used repairing the banks of the Buckeye Lake. Four horses and harness for same. Two-horse wagons, one-horse wagon and harness. Two top buggies and other tools and appliances, a return of which has been furnished the office at Columbus.

## AQUEDUCTS.

The Lake run aqueduct was repaired with one new brace timber on north end of berme bank side. The aqueduct north of Carroll over Walnut Creek was repaired with new floor timbers, posts and new plank. Also a string of sheet piling was driven 68 ft. long and 12 ft. in depth. Earth work dug out and refilled. Circleville aqueduct was repaired with some new floor timbers and plank for siding. Rebuilt three spans of the Yellow Bud Aqueduct complete. Rebuilt the Deer Creek Aqueduct except one-half span, and raised the entire aqueduct 8 inches from end to end and put in two new hanging beams in the  $\frac{1}{2}$  span that was left. Put in bulk head at Paint Creek Aqueduct. One new span at Stony Creek was rebuilt complete, and the remainder of aqueduct was repaired in the way of flooring and siding, and one pair of new truss braces and posts. Repaired Waverly Aqueduct with 20 new posts and 60 ft. of new cap or cord, 60 ft. of siding and several braces.

## LOCKS.

The South lock north of Baltimore had some extensive repairs by digging out the earth from behind the walls and refilling the same. Put in two bulk heads of 3 in. oak timber and 70 ft. of a line of sheet piling of 2 in. oak was driven and refilled with earth. Baltimore Lock at Paper Mill where the gates gave way was replaced with new bulk head and all the earth work around the lock was refilled. Lockville Guard Lock at Walnut Creek was repaired with new bulk head and refilled with earth. Canal Winchester Lock received new bulk head and refilled behind the walls with earth.



Tumble way dug out the length of 90 ft. Carroll Lock received new bulk head and earth dug out from behind the walls and refilled. The earth work around the Groveport Lock was repaired and paddles recleated. Lockbourne Lock was repaired by refilling of earth behind the walls. Paddles recleated and stems overhauled. The 18 mile lock at Marfield's Mill was repaired by jacking back the walls, new concrete work under the floor behind and in front of the gates and new floor. The 4th and 5th street locks at Chillicothe were both cleaned out twice. Vesters, Lunbecks, Upper Middle and Lower 3 locks, Highbys Guard Lock, Waverly Upper, P. P. Lower and Jasper Guard Locks were all cleaned out several times.

#### LOCK GATES.

Put in 3 new gates complete in the 18 Mile Lock at Marfield's Mill upper lock. Two new gates were put in complete at 5th Street lock in Chillicothe and one gate set in same lock and one at P. P.

#### CULVERTS.

The double culvert at Rample Creek was repaired by replacing new timbers which washed away and refilled with stone, gravel and cement. The 3 mile culvert north of Circleville was cleaned out four times. Culvert on 6 mile level north of Carroll was cleaned out three times. All of the culverts between Chillicothe and Waverly were cleaned out two times and Dry Run culvert was cleaned of all debris and gravel scraped out.

#### DAMS.

Put in new abutment with concrete at Kirkersville dam. Tore out old cribbing and refilled the new concrete work with gravel. Rip Rap laid up with cement and gravel for a protection wall. Lockville Dam was repaired with earth, stone and gravel. Millport Dam was repaired about 60 ft. in length on top with new timber, brush, stone and gravel, and stripped the entire dam.

The Tomlinson Dam was not repaired on account too much water, but stone and timber is bought and on the ground which will be in next annual report. Banks raised and repaired.

Refilled a break in bank at Cochrains culvert on 9 Mile level 35 ft. long, 12 ft. deep. North of Carroll on 6 Mile level where the Flumes were washed out by high water. A fill was made 65 ft. long, 40 ft. base, and 18 ft. deep and the banks along the same level were dug out and raised in several places. The 4 Mile level at Canal Winchester was repaired by raising it in several places. Two Mile level south of Canal Winchester locks: There were several bad leaks dug out and refilled. On 6 Mile level south of Groveport the banks were repaired at different places. The levees at Lockbourne that were washed away by high water was replaced. One levee was 65 ft. long and 8 ft. deep, another was 45 ft. in length and 8 ft. deep and the other about 300 ft. long and 2 ft. deep, and on short level a fill of 100 ft. was made on the Towpath side.

Put in fills on 2 Mile level below Circleville on Berme and Towing path 600 ft. long. Restored bank at 2 Mile locks 180 ft. long. Put in break at Westfall Wasteway with brush, stone and earth 80 ft. long and 18 ft. deep. Put in break below Yellow Bud 100 ft. long, 15 ft. deep and repaired break on Circleville level. The bank above Omega was dug out to stop leak and bank raised.

#### BARS.

Removed three bars on Circleville level. Took out bar below 2 Mile lock, 250 ft. long, 4 ft. deep, full width of canal. Moved all the bars from 2

Mile lock to the 18 Mile lock at Marfield's Mill. The school house bar 800 ft. long. Overly Bar 200 ft. long and several other bars were taken out which would aggregate 500 ft. in length. Took out 2 bars above 3 Locks, and 3 below locks. Took out 6 bars between Stoney Creek and Waverly and 2 bars on 2 Mile level below Waverly, 5 on the Jasper level, making a total length of 700 ft.

#### BRIDGES.

Built new towing bridges at Yellow Bud Aqueduct complete and one new towing bridge at Deer Creek Aqueduct. Put in new bridge at Circleville Dam across feeder. Also one new towing bridge across Stony Creek.

#### BRUSH AND WEEDS CUT.

Mowed banks of Canal both two miles and Berme bank in City of Newark, North Fork Aqueduct west to Lockport a distance of one mile. Lockport and Fair Grounds level, Tow and Berme bank a distance of two miles. From Fair Ground to Taylor's Lock, the Tow and Berme banks were moved a distance of two miles. On the 9 Mile level from Taylors Lock to Hebron the towing path was moved a distance of five miles. On 6 Mile level north of Carroll the banks were moved and cleaned of brush and weeds. The same was done at Canal Winchester and Groveport making a total distance of nine miles. Cut the brush and weeds on the Circleville level, also cut brush and weeds from Yellow Bud to 18 Mile Lock, a distance of twelve miles. The brush and weeds were cut through Chillicothe and Waverly, also from 2 Mile above Omega and from Omega to P. P. Lock, a distance of 9 miles.

#### GRASS CUT FROM CHANNEL OF CANAL.

Cut grass in City of Newark four times a distance of one mile, which is equal to 4 miles. Fair Ground Level was cut once, one mile. Nine Mile Level from Taylor's Lock to Hebron, 5 miles. Nine Mile Level from Taylor's Lock to Franklin Bridge, 4 miles. Nine Mile Level from Taylor's Bridge to Franklin Bridge,  $1\frac{1}{2}$  miles. Nine Mile Level from Crouse Bridge to Taylor's Bridge,  $1\frac{1}{2}$  miles. Nine Mile Level from Edwards Bridge to Franklin Bridge, 1 mile. Total, 18 miles.

This 18 miles of grass was taken out of Canal with forks and hook. On 6 Mile Level north of Carroll and 2 Mile Level south of Canal Winchester and south of Groveport 6 miles of channel grass was cut and taken out.

#### WASTE AND FEED GATES.

The waste gates at Buckeye Lake were recaulked. South of Carroll on 2 Mile Level the waste gates were repaired with new lumber. The Circleville and Tomlinson Dam Feeder gates were put in new complete. Below Waverly on 2 Mile Level the waste gates were repaired with new lumber, earth dug out and refilled under sill and puddled.

#### FEEDERS.

The Circleville and Tomlinson Dam feeders received new bulkheads complete. The brace timbers were let in stone walls and cemented. The walls were repaired with brick and cement mortar. The Millport Feeder was cleaned of all debris, as we cleared the other feeders also.

#### MISCELLANEOUS.

The repairs on Buckeye Lake are as follows by hauling or boating and relaying stone on north bank. Putting in new channel, stakes and buoys and



20 piling. Moved north bank and cut brush from Park to Sellers Point. Graded and graveled a portion of bank between Park to waste gates. Then on south side of Lake a public landing was built new complete with 26 piling driven from 6 to 25 ft. long. The pier or landing was 108 ft. long braced with 2 in. oak plank. Floored with 2 in. oak 8 ft. long. The Flumes at north lock were widened to 60 ft. The stone wall was reset and earth was used to fill in low places of bank and behind walls of North Lock and puddled. Rip Rap wall was placed from flume toward North Lock. A new foot bridge was placed over North Lock 18 ft. long and 5 ft. wide. A fill was made at Lockbourne on or near Geo. Foard's farm for protection. Also a fill was made across Columbus feeder for protection of farmers at or near Moreheads place.

Putting in concrete tumble way complete below Circleville at Lower Lock on 2 Mile Level. Calking Circleville Aqueduct, cleaning out for paddles and resetting paddles and overhauling paddle stems in locks on 2 Mile Level. Also calking the Yellow Bud and Deer Creek Aqueduct by hauling or boating gravel and cinder. The Stony Creek, Paint Creek and Waverly Aqueducts were calked with gravel. The paddles of locks were cleared from Chillicothe to Waverly. The Guard Lock at Higby's was cleared of all silt and debris. Dug out wings of aqueducts at Omega, Waverly, P. P. and Sunfish Aqueducts, and refilled with earth, stone and gravel. There were leaks in banks, dug out, refilled and puddled at Higby's, Omega, Corwins, Deacons and Ghost Orchard Basin. Cleaned out channel from 3 locks to above Chillicothe. Boating stone and gravel for Stony Creek Aqueducts, also Wheeling stone off of bar in the river for the same. Hauling timber for Stony Creek and Waverly Aqueducts. Calking State Boat No. 2, taking drift and trees out of Canal and putting hog chain on hanger on Omega Aqueduct. Putting in head gate at Dry Dock at Waverly. Since last Annual Report the State has suffered a loss of one repair boat. One dredge and boarding boat for same during the fire at Waverly when The Summitt Mills burned. The iron that was left was removed to a place of safety. This miscellaneous part of report includes looking after Canal in times of heavy rains drawing water to prevent over-flow of banks and putting in 7 catch basins from 3 locks to Fosters below Higbys. On 6 Mile Level there were 8 fills made, caused by muskrat holes, to protect the lands of farmers.

#### REPAIRS NEEDED.

I do hereby further report to you that the following repairs are needed upon said Sub-Division No. 3 and 4, Grand Division No. 2.

#### ON AQUEDUCTS.

All the aqueducts on Sub-Division No. 3 and 4 are needing repairs except those that have been rebuilt the last four years, and as white oak timber is almost impossible to get in desired lengths at a reasonable price, I recommend that steel structures be put in place of white oak timbers. The durability of a steel aqueduct will more than pay for the extra cost you would pay between the steel and white oak timber. New aqueducts are needed at Vickers one mile west of Frazeysburg and over North Fork of Licking. The aqueduct over Racoon Creek needs extensive repairs in the way of top cords, truss braces, bottom cords, the entire structure is in a bad condition. The aqueducts over the South Fork of Licking Creek and the aqueduct north of Carroll on 6 Mile Level are needing extensive repairing. Since the last Annual Report the middle span of Paint Creek Aqueduct has gone out, and the contract is let for a steel span to be placed by the first of the year. Camp Creek, Bear Creek and the Sunfish Aqueducts need to be rebuilt. The aqueducts across Brush Creek at Rushtown is in a splendid condition but is needing new floors and siding.



## LOCKS.

All the locks from Newark to Buckeye Lake need repairing in the way of reflooring, new mitre sills and new tumble ways. From Buckeye Lake to Lockbourne there are 27 lift locks and three guard locks which all their walls need repairing with brick, stone or concrete, new mitres and reflooring. The locks on Columbus feeder. The lift and guard locks at Millport need repairing with new flooring, mitres and walls repaired with concrete, brick or stone with cement mortar, all the locks on this Sub-Division No. 4 need repairs as above stated from Chillicothe to the Elbow Lock, the third lock this side of the entrance lock into the Ohio River.

## LOCK GATES.

The following locks need new gates: Vickers, Nashport, Newark, Taylors, North and South Locks at Buckeye Lake, Baltimore, Carroll, Lockville, Guard and 4 Mile Locks on Columbus feeder, Millport, Circleville and all the locks from Chillicothe to the outlet locks into the Ohio River.

## CULVERTS.

As the drainage of the lands along the Canal lands is increasing nearly all of the culverts need enlarging and extensive repairing.

## DAMS.

The following dams need rebuilding, to-wit: Blackhand, the head gate at North Fork feeder, at Basil and Paw Paw Creek, at Baltimore. The Circleville and Tomlinson needs new sheeting on both aprons and the cribs filled with stone and gravel.

## BANKS RAISED.

The banks from Dresden to Newark and from Newark to Lockbourne need to be strengthened and raised in several places. The banks on Columbus feeder needs to be restored in many places, from Lockbourne throughout the Sub-Division No. 4 the banks need raising which could be done by dredging.

## BARS REMOVED.

There are some heavy bars throughout Sub-division 3 and 4 to be removed and where the canal is dry this work could be done with scraper at a normal cost, and where the water is in the channel I recommend the work to be executed by dredging.

## BRIDGES.

Towing bridge at Licking Lock, Lockville, and north of Carroll are needed. A new towing bridge at Paint Creek the length of span that went out is needed and remainder of bridge needs repairing, and if the aqueducts throughout Sub-division No. 4 are restored new tow bridges will be needed.

## BRUSH AND WEEDS CUT.

Brush and weeds should be cut and burned throughout Sub-division 3 and 4 each year.

## GRASS CUT IN CHANNEL.

The channels are in good condition from Newark to Buckeye Lake as the channel grass was cut and taken out as late as the first of September, but from Buckeye Lake to Groveport there is 15 miles of channel grass needs cutting. From Omega to Waverly the channel grass needs cutting.

## DREDGE AND DREDGING.

Before asking for the needed dredging on Sub-divisions 3 and 4 we need an improved dredge which could be used very profitably. The Canal needs dredging out in many places from Dresden to the Ohio River. Then a dredge would be of great service in dredging channels on Buckeye Lake.

## WASTE AND FEED GATES.

Waste gates are needed at Nashport, Newark, Basil and Paw Paw feeders. Also waste gates are needed above Park at Chillicothe and below Waverly on short level.

## FEEDERS.

The feeders at Baltimore could be restored at a small cost. The North Fork feeder needs to be opened at head gates and dredged to Newark. The Columbus feeder needs restoring by dredging. The Circleville and Tomlinson Dam feeders are in excellent condition as they have been just repaired in the last year.

## MISCELLANEOUS.

There are several places throughout Sub-divisions 3 and 4, Grand Division No. 2 needing catch basins where drainage is let into Canal channel. As the stumps on Buckeye Lake are hindering the navigation, and there has been spent already a considerable amount of money to rid the lake of stumps, I recommend a sub-marine saw where the stumps could be sawed off close to bottom of Lake and taken out with less expense than a mere attempt and not anything accomplished. As Buckeye Lake is becoming every year more and more a pleasure resort it is necessary that the question of ridding the Lake of stumps or whatever hinders navigation have a serious consideration.

The Lock House at Circleville, 3 Locks and Higby's are needing repairs in the way of foundations, reroofing and new windows. All of the repair boats are needing extensive repairing, also the tool houses are needing new roofs.

In conclusion I earnestly extend my heartfelt thanks for the kindness and courtesy you have shown me when receiving instructions and advisement from you in the discharge of my duties.

Respectfully submitted,

HARRY R. MORRIS,  
*Superintendent of Repairs.*

## FINANCIAL STATEMENT DURING THE FISCAL YEAR ENDING NOV. 15, 1906.

*Canal Repairs. Paid Through Regular Appropriation.*

1905.		
Dec. 12.	Abstract .....	\$707 76
1906.		
Jan. 9.	Abstract .....	1,152 49
Feb. 13.	Abstract .....	896 73
Mar. 13.	Abstract .....	831 23
April 10.	Abstract .....	883 01
May 8.	Abstract .....	2,636 08
June 12.	Abstract .....	4,047 23
July 10.	Abstract .....	3,799 72
Aug. 14.	Abstract .....	2,550 75
Sept. 14.	Abstract .....	2,187 40

Oct. 9.	Abstract .....	1,072 51
Nov. 13.	Abstract .....	985 11
Total .....		\$21,750 02

*Deficiency. Building Embankment at Lockbourne.*

1905.		
Dec. 12.	Abstract .....	\$878 71
1906.		
Feb. 13.	Abstract .....	21 29
Total .....		\$900 00

*Buckeye Lake.*

1906.		
Feb. 13.	Amount of Abstract.....	\$37 75
Mar. 13.	Amount of Abstract.....	60 93
May 8.	Amount of Abstract.....	51 75
June 12.	Amount of Abstract.....	355 26
Sept. 13.	Amount of Abstract.....	239 26
Nov. 13.	Amount of Abstract.....	418 74
Total .....		\$1,163 69

Amount Paid Through Regular Appropriation.....		\$21,750 02
Amount Paid Through Deficiency.....		900 00
Amount Paid Buckeye Lake.....		1,163 69
Grand Total .....		\$23,813 71



## OFFICE OF SUPERINTENDENT OF REPAIRS.

CINCINNATI, OHIO, December 17, 1906.

HON. CHAS. E. PERKINS, *State Engineer, Columbus, Ohio.*

DEAR SIR:—I herewith submit to you my Annual Report of Repairs made on Sub-Division No. 1, Grand Division No. 3, Miami and Erie Canal, during the fiscal year ending November 15, 1906.

CHAS. COOPER,  
*Superintendent of Repairs, Reading, Ohio.*

This Subdivision extends from Cincinnati to the lower lock at Carrollton, a distance of fifty-seven miles.

## FOREMEN.

R. V. Denny, foreman of carpenters, Middletown, Ohio, length of service forty-five years.

Fred Blerseh, foreman of State repair boat No. 1, Cincinnati, Ohio, length of service, four years.

Henry F. Eyler, foreman of State repair boat No. 2, Cincinnati, Ohio, length of service, nine years.

William Sheedy, foreman of Dredge No. 6, Franklin, Ohio, length of service, twenty-four years.

## PROPERTY.

There are on this subdivision two State Repair boats, one steam dredge and boarding boat that accompanies dredge, four mules and numerous tools and appliances, in accordance with semi-annual report made.

## LOCKS.

Built new upper and lower gates for Middletown lock, refloored and concreted in between timbers of same lock, also built mitre sills for same lock, built dams at upper and lower end of Middletown Lock and pumped water out, after new lock was built dams were removed. The mud and debris was removed from the front of the upper jaws and lower gates of the four locks at Lockland four times. Crescentville, Hamilton, Excello, Dines and Miamisburg. Locks were cleaned once the past season.

## CANAL BANKS.

The low banks on the twelve mile level and on the six and eight mile levels below Hamilton and on the level between Miamisburg and Sunfish lock were raised, also the canal banks where the break occurred at Ross Lake and on six mile level above Lockland where the break occurred were strengthened.

## CULVERTS.

The culvert at Hickenlooper farm was repaired and cleaned. The culvert above Sunfish aqueduct and the abutments were repaired and pointed up with Portland Cement. The culvert above Port Union was cleaned free of debris.

## WASTE WEIR AND TUMBLES.

The waste weir at Dwyers, the waste weir at Port Union and the waste weir above Rockdale were each repaired, built one hundred feet new waste way below Crescentville, built seventy feet new waste way below Rialto.

## WASTE GATES.

New waste gates and new floor and frame-work were built at West Carrollton, repaired waste gates at Crescentville, Dwyers, Cincinnati and opposite Spring Grove Cemetery.

## TOWING BOATS.

New floor was built across Mitchel Ave. aqueduct, towing bridge at State's house was repaired, towing bridge at Crescentville was repaired.

## FOOT BRIDGE.

New foot bridges were built at the following places, to-wit:— Across the lower lock at Lockland and upper Hamilton lock, and Tangeman's Crescentville and Excello were repaired.

## DAMS.

The abutment at the right bank of the Miami River of the State dam was repaired. The upper shething of that dam was repaired. There was dredged from the canal on this subdivision during the past season approximately 18,000 cubic yards of earthly sediment.

## WEEDS AND BRUSH CUT.

The weeds and brush were cut from the banks of the canal between Cincinnati and Sunfish lock twice during the past season.

## FEED GATES.

The feed gates at Dines received repairs during the past season.

## DREDGES AND REPAIR BOATS.

There was numerous repairs made on Dredges No. 4 and 6. The State boarding boat that accompanies the dredge has received needed repairs and State repair boats No. 1 and 2 have received needed repairs. State repair boat No. 2 is in such a condition that it should be replaced by a new boat.

## AQUEDUCTS.

Repaired Crescentville Aqueduct, repaired Miamisburg Aqueduct, pointed up abutment walls with Portland cement and laid a twelve inch concrete floor under the aqueduct to protect abutment walls, repaired Amanda Aqueduct with new floor and twenty-four twelve-inch "I" beams also repaired sides of same.

## SLUICE GATES.

Repaired sluice gates above Rockdale and on Greenland level.

## BREAKS REPAIRED.

Repaired break at Hickenlooper farm above Lockland, repaired break at Middletown sewer, two small breaks at Cummins ville were repaired, three breaks on eight mile level below Hamilton were repaired.

## BARS.

The bars on six and twelve mile levels were removed with Dredge No. 6.

## CATCH BASINS.

Repaired catch basins on twelve mile, Franklin and Greenland levels.

## MISCELLANEOUS MATTERS.

Repairs were made on Canal Collector's office at Cincinnati, and Canal Collector's office at Middletown. Debris was removed from the canal at Cheap-side in Cincinnati between Court Street and Broadway taking three hundred and eighty wagon loads of rubbish from canal. Stone was placed around the tubs of Carthage Aqueduct. Gravel and cinders were hauled to repair towing path on twelve mile level, leaks were repaired at Mitchel Avenue Aqueduct and at Kloper's Bend, Queen City Avenue and Niger Hill on twelve mile level, repaired seven leaks on six and eight mile levels. New snubbing posts were placed in position where needed on this subdivision, repaired leak at south abutment at Carthage Aqueduct, removed debris from under Carthage Aqueduct, removed trees from twelve, six, eight and two mile levels.

The basin opposite flour mill at Lockland was cleansed free of mud. Built flume at Lesourdsville to carry water into Cincinnati while building new aqueduct. Cut down trees on berme bank of canal between Hamilton and Excello, built dams at north and south ends of Lesourdsville Aqueduct, removed old aqueducts from canal at Lesourdsville and Crane's Run. Built new rack at elevator mill in Cincinnati, cleansed banks of debris from Cincinnati to Lockland seven times during the past season.

## REPAIRS NEEDED.

The Rockdale and Lower Hamilton locks need to be rebuilt.

Rialto, Excello, Flour Mill lock at Lockland, Collector's lock at Lockland need repairs. The jaws of Tangemans lock at Lockland should be rebuilt.

## LOCK GATES.

New upper and lower gates are needed at Amanda, new floor is needed for same lock, several locks need new balance beams.

## CULVERTS.

The culvert at Holwager's should be enlarged. Bloody Run culvert needs repairs.

## AQUEDUCTS.

Miamisburg, Crescentville and Port Union aqueducts need repairs.

## WASTE GATES.

New waste gates including entire new woodwork should be rebuilt near the flouring mill at Lockland; new waste gates are needed on the Greenland level above the State dam, and at Rockdale on the four mile level new waste gates are needed at the elbow and at Court Street and back of the Morgue in Cincinnati. New feeder gates including entire new woodwork should be rebuilt at Dines lock. The waste gates at Dwyers needs repairs.

## DAMS.

There should be a new dam built at State Dam above Middletown, as the old dam is in a worthless condition.



## DREDGING.

The canal from Miamisburg to Middletown should be dredged and from Lockland to Cincinnati should be dredged.

## TOWING BRIDGES.

New towing bridges should be built at Miamisburg, Lesourdsville, Middletown, Dines and Crane's Run.

## CANAL BANKS.

Need raising from Miamisburg to Cincinnati in places.

## WASTE WAYS.

Waste ways need repairing on six mile level above Lockland and on six mile level above Hamilton and at Sheeds above Franklin.

## FOOT BRIDGES.

A number of foot bridges are needed along the Division.

## TUMBLES.

The tumble south of Lower Mill at Lockland and the falls at State house needs repairs.

## OFFICE OF SUPERINTENDENT OF REPAIRS.

DAYTON, OHIO, December 8, 1906.

HON. CHAS. E. PERKINS, *Chief Engineer of Ohio Public Works, Columbus, Ohio.*

DEAR SIR:—The following is my annual report on the repairs made on Second Subdivision of the Miami and Erie Canal during the past year, ending Nov. 15, 1906, and also repairs needed for the ensuing year.

The subdivision extends from West Carrollton to New Bremen, a distance of 78 miles and also includes the Lewiston and Loramie reservoirs, and the Sidney and Loramie feeders.

## FOREMEN.

Lincoln Evans, foreman repair boat No. 1, at Dayton, 5 years' service and 9 years as boatman. Edward McConnell, foreman of repair boat No. 2 at Piqua, 31 years' service.

There is on this subdivision two repair boats and one dredge.

## REPAIRS MADE.

*Aqueducts.*

Two spans of the Lockington Aqueduct were repaired with part new posts, and part new siding, and rods tightened. The 35 foot span of the Troy Aqueduct was repaired with several new posts and one side re-planked and two new wing walls.

The stone pier next to the north abutment of the Miami Aqueduct was found to be in bad condition, and it was repaired by building a concrete wall ( $2\frac{1}{2}$  ft. thick at base and 1 foot thick at top and sixteen feet high), all around it. This makes the pier stronger than when it was first built.

## LOCKS.

Locks 1, 4, 6, 11, 24 had the walls partly aligned and part pointed with cement mortar. All locks were cleaned out.

## LOCK GATES.

One pair of new gates were put in Lock 8. Gates 2, 3, 7, 9, 10, 22, and 23 were repaired. Some by being spliced, some new balance beams and some by replanking.

## CULVERTS.

Slight repairs were made on the Oak's Creek culvert. All other culverts were cleaned out of all debris.

## DAMS.

The brush and stone dam at Troy feeder was repaired with stone and gravel.

## BANKS RAISED.

The bank of the level above Piqua was raised two feet for a distance of 400 feet. The level below Piqua was raised two feet for a distance of 800 feet.

The bank on the level below Dayton was raised and strengthened in several places where breaks had occurred the year before.

## BARS REMOVED.

Bars were moved at the Bluffs near Dayton and wheeled on the bank to strengthen it.

## BRIDGES.

New bridges were built at Locks 1, 3 and 10. A new towing bridge was put in at Oaks Creek.

## WEEDS AND BRUSH.

Weeds and brush were cut from Dayton to Carrollton, and from Troy to New Bremen, and from Lockington to Port Jefferson, the Sidney feeder.

## DREDGING.

Dredge No. 4 worked one month on the level below Dayton. The dredge has been on the first subdivision since May, 1906.

## WASTE AND FEED GATES.

Some repairs were made on the waste gates on the summit level. New frame and gates were put in at Oak's Creek.

## WASTE WEIRS.

The stone weirs on the levels above and below Piqua were repaired with stone and gravel.

## RESERVOIR BANKS.

In February, 1906, a severe wind and rain storm endangered the safety of the Lewiston reservoir bank west of Lakeview and left it in a dangerous condition, and the storm weakened the bank at other points. Since that time for the protection of the bank, there has been driven in front of the bank 240 piling 16 feet long, over 50,000 cubic feet of logs has been gathered from the drifts in the reservoir and placed between the piling and the bank, and three thousand cubic yards of earth has been hauled on the lowest parts of the bank.

All at a cost of \$4,650.00.

## SLUSHING THE CANAL.

In the level below Piqua the weeds and flags had grown far out on the sides of the banks, thereby holding the sediment and decreasing the width of the canal to such an extent that it became impossible to pass the amount of water needed for the Mills below. Canal scrapers were put in on the level below Piqua and the sediment was scoured out through the lock at Stillhouse and in the same way it was carried through the two mile level to Allen's Mill,  $\frac{1}{2}$  mile below that, it was passed through the aqueduct and from that point  $2\frac{1}{2}$  miles to Troy, was treated the same way. The water and sediment being passed through a flume just above the lock at Troy. The result is that there is a good canal between Troy and Piqua, a distance of 8 miles. The canal is full width, and in no place is there less than four feet of water and nearly all is five feet.

The conditions at Dayton were so bad, especially in the basins at the Public landing, which is wide, and a dead end, as it is back water from the mills at that point, the basins were so filled up that it was impossible to pass a boat with half a load. This, by order of the Board was slushed out through the waste gates, just below Dayton. Later the same conditions were carried out as far as Carrollton, (with the exception of about 2,000 feet near National Cash Register), where a lot of sand and gravel was washed in. There is a good canal between Dayton and Carrollton.



I am pleased to report that there has been no break in the canal banks the last year, except at Oak's Creek, which was caused by the canal being filled up on account of the Miami aqueduct being out of repair.

The improvement from Dayton to Carrollton was charged to the permanent improvement fund in charge of Engineer James C. Wonders.

REPAIRS NEEDED ON THE SECOND SUBDIVISION OF THE M. & E. CANAL FOR THE ENSUING YEAR.

AQUEDUCTS.

The five spans of Lockington aqueduct need to be overhauled and tightened up and one pier needs to be rebuilt.

The Plum Creek aqueduct, 40 foot span requires a new structure, as the present one is in very bad condition and if it should collapse, it would cut off the water from all interest on the canal at Piqua and the north.

LOCKS.

Locks 3, 5, 6, 7, 17, and 19 needs to be unwatered and part new floors put in and mitres repaired and planked and part of the walls set back and aligned.

LOCK GATES.

9 pair of new gates are needed on this subdivision.

CULVERTS.

A 12 foot stone culvert 2 miles north of Lockington is in dangerous condition, and needs to be treated as the Holt's Creek Culvert with a concrete wall on the outside of the stone arch.

The 14 foot culvert 6 miles north of Lockington needs to be treated in the same way.

BANKS SHOULD BE RAISED.

The banks need to be raised in many places, especially east of Sidney on the feeder. This can be best done by the dredge.

DAMS.

The Piqua dam will need to be partly rebuilt. The Port Jefferson dam needs a new floor, and the brush and stone dam at the Troy feeder needs to be repaired.

DREDGING.

This subdivision needs dredging its entire length, a large amount of this could be done by a system of sluice gates, where the material is not needed for raising the banks.

The conditions for sluicing out the canal on this subdivision are very favorable on account of so much of the canal running close to and parallel with the river.

In July, 1903, the Miami aqueduct collapsed, causing the water to be out of the canal north of Dayton, a distance of ten miles. Since then, many bars and much sediment has been washed in and at present, there could not be passed on an average more than two feet deep of water in that distance.

WASTE GATES.

New gates and a complete new structure is needed on the summit level.

In last March, the timber structure and gates of the Loramie's feeder

collapsed. This has not been rebuilt. No water can be turned into the canal from the Loramie reservoir until this is rebuilt.

#### FEED GATES.

The feed gates at the Loramie reservoir needs to be repaired.

At Port Jefferson there are temporary frame and gates put in as it was impossible to use the old structure. The walls of which are of stone and has been undermined. This should be repaired, as a large amount of damage would result by the breaking of the temporary structure, thereby letting the river into the canal.

#### WASTE WEIRS.

The waste weir at the Loramie reservoir collapsed in April, 1903.

This weir is one hundred and seventy feet in length with two drops. First drop seven feet, second drop six and one half feet. A temporary dam has been put in where the water approaches the weir whereby the water is held in the reservoir at nearly its normal height.

Waste weir of timber and summit level 70 feet long, 3 drops, feet, 7 feet and 5 feet need to be rebuilt. Several weirs need slight repairs. The seventy-five feet weir, seven feet drop at Tippecanoe will have to be entirely new. A new weir is needed below Dayton at Shroyer's Run.

#### FEEDERS.

Many bars and a large amount of sediment washed into the Sidney feeder, which makes it very difficult to pass the water needed for navigation, and if those obstructions are not removed soon, it will be impossible to pass the amount of water needed for the main canal at Lockington. The bank a distance of three miles north of Sidney is dangerously low.

#### RESERVOIRS.

For the protection of the Lewiston Reservoir Bank, it will require 650 piling, 16 feet long, and 3,200 pieces of lumber  $2\frac{1}{2} \times 4$  feet, and will need 4,000 cubic yards of earth, and large amount of drift logs to place between the piling and the bank. The logs can be found in the reservoir.

#### LORAMIE'S RESERVOIR BANK.

To protect Loramies reservoir bank will need 150 pieces of piling, 16 ft. long, 560 pieces of lumber,  $2\frac{1}{2} \times 6$  feet, 14 feet long. 2,300 cubic yards of earth will cost about \$1,571.00.

I respectfully refer you to Secretary's report for financial statement.

Very respectfully submitted.

JOHN O'CONNOR,  
*Superintendent.*

## OFFICE OF SUPERINTENDENT OF REPAIRS.

TOLEDO, OHIO.

HON. CHAS. E. PERKINS *Chief Engineer, Public Works of Ohio.*

I have the honor to submit herewith my annual report of repairs made on Sub-division No. 3, Grand Division No. 3, Miami and Erie Canal, during the year ending November 15, 1906.

This sub-division extends from New Bremen to Toledo, a distance of 121 miles and includes the St. Marys feeder and Grand Reservoir.

There are on this sub-division, three repair boats, two scows, one steam dredge (not serviceable), one horse and two mules, besides tools and appliances, all being the property of the State of Ohio.

## FOREMEN.

The following is a list of foremen regularly employed on this sub-division, also their post office address and number of years employed.

S. E. Allmon, Toledo, Ohio; 12 years.

J. R. Spencer, Delphos, Ohio; 21 years.

Frank Bennett, St. Marys, Ohio; 6 years.

## AQUEDUCTS.

The abutments of the St. Marys Aqueduct received slight repairs.

The Auglaize River Aqueduct received needed repairs.

## LOCKS.

Locks Nos. 12, 20, 32, 35, 45, 46, 47, 48, 49, 50, 51 and 52 each received temporary repairs.

Lock No. 38 received a new deck and head.

Lock No. 39 being a river lock, the water was removed and the lower story anchored to the mud sills.

## LOCK GATES.

The gates at Locks Nos. 17, 18, 31 and 33 received needed repairs.

Locks Nos. 15, 30, 47, 48, 49, 51 and 52 each received two new gates.

Lock No. 24 received four new gates.

## CULVERTS.

Culverts Nos. 7, 11, 14, 15, 16, 17, 27, 29 and 32 received needed repairs, also three culverts under the towing path along the slack water were each repaired.

## DAMS.

One hundred and ten cubic yards of rip-rap stone was placed between the old and new dams at Providence.

## BANKS.

The towing path embankment for short distances below Lock No. 1, along the 5, 9, 18 mile levels, St. Marys feeder and hydraulic was raised and repaired.

A new berm bank was constructed between the canal and Hookers pond, at South Defiance.



## BRIDGES.

The towing bridge crossing the waste way on the nine mile level, Jennings Creek, and Lock No. 46 were each repaired.

Two new bridges were placed at Lock No. 23.

## BRUSH AND WEEDS CUT.

The brush and weeds were cut from the canal bank from Lock No. 14 to Toledo, and from the banks along the St. Marys feeder.

## WASTE WEIRS.

The waste weirs at Locks Nos. 25, 26, 32, 33, 34 and 38 were each repaired. New waste weirs were placed at Locks Nos. 18 and 21.

## FEEDERS.

Piling protection was placed in front of the feeder at the Grand Reservoir. The debris was removed from the Providence feeder.

## MISCELLANEOUS REPAIRS.

Repair boats Nos. 1, 2 and 3 were each calked and painted.

The upper stories of locks Nos. 14, 36 and 37 were removed.

Sheet piling dams were placed in the canal and the banks cut on the five and nine mile levels in order to prevent the storm water from interfering with the contractors at lock No. 14 and Six Mile Aqueduct.

## REPAIRS NEEDED.

## AQUEDUCTS.

A new aqueduct is needed crossing little Jennings Creek, which should be made an arch culvert.

New abutments are needed at St. Marys aqueduct.

New super-structure is needed at Flat Rock Aqueduct and the abutments should be repaired.

Concrete aprons should be placed at Blue Creek, Flat Rock and St. Marys Aqueducts.

## LOCKS.

New locks are needed at Nos. 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 38 and 39, as these locks are constructed of wood, the lower stories are in a very bad condition owing to erosion.

Locks Nos. 41, 42, 43, 45, 46, 47, 48, 49, 50, 51 and 52 being stone locks, should be rebuilt from the water line of the lower levels, as the lime stone which has been exposed to frost, has so deteriorated that the walls are about to fall.

Locks Nos. 8, 24, 30, 40 and 44 need slight repairs.

The feed lock at the Grand Reservoir needs extensive repairs.

## CULVERTS.

Owing to the improved condition of the drainage between New Bremen and Defiance, the culverts which were placed under the canal during its original construction (the majority of which are of wood) are at present entirely inadequate to pass the water during the wet seasons of the year, thus the private property adjacent to the canal is damaged.

There are on this sub-division of the canal thirty-three culverts which should be rebuilt and fifteen stone culverts which should be repaired.

## DAMS.

A new dam is needed at Providence.

The abutments at Independence dam should be repaired, protection walls placed on either side and the embankments strengthened.

## BANKS RAISED.

The canal banks should be raised and strengthened the entire length of this sub-division. The water level has been lowered from time to time in order to prevent flooding the banks until the standard level is, at the present time, from 12 to 14 inches below its original height.

## BARS REMOVED.

The bars between Independence and Florida, below Providence and Bucklin Lock should be removed.

## BRIDGES.

New bridges are needed crossing the St. Marys feeder, Flat Rock Creek and at Boyds change bridge.

## BRUSH AND WEEDS CUT.

The brush and weeds should be cut from the canal embankments each year.

## DREDGING.

The canal should be dredged to a depth of from 12 to 18 inches, from New Bremen to Defiance, Independence to Florida and through the City of Napoleon.

## WASTE WEIRS.

New waste weirs are needed at locks Nos. 2, 3, 4, 5, 6, 7, 9, 10, 11, 32 and 33.

## MISCELLANEOUS REPAIRS.

A new boat is needed to replace repair boat No. 1.

Repair boats Nos. 2 and 3 should be calked and painted each year.

In conclusion I wish to call your attention to the fact that, owing to a lack of funds sufficient to make permanent improvements, the department has been obliged to make temporary repairs as best they could from year to year on this sub-division until the canal has reached such a state of delapidation that in order to preserve it, it must be practically rebuilt.

Very respectfully submitted,

H. W. MEACHAM,  
*Superintendent of Repairs.*

Toledo, Ohio, November 15, 1906.





ABSTRACTS OF MONIES PAID  
BY  
SUPERINTENDENTS OF REPAIRS.

(99)



# ABSTRACT OF MONEYS PAID BY SUPERINTENDENTS OF REPAIRS.

## ABSTRACT OF MONEY PAID.

By Charles Hatch, Superintendent Sub-Division No. 1, Grand Division No. 1, Ohio and Erie Canal, for Material and Labor for the Maintenance and Repair of the Public Works.

No. of Voucher.	To Whom.	And For What Paid.	A. Munt.
		<i>December, 1905.</i>	
1	J. H. Morrison.....	Expense as collector.....	\$6 78
2	J. I. Johnston.....	Feeding state horse, etc.....	19 79
3	John Moore .....	Feeding state team, etc.....	23 10
4	J. M. Jones.....	Expenses as collector.....	3 00
5	Charles Savacool .....	Feeding state horse.....	10 60
6	C. W. Riley.....	General blacksmithing .....	6 15
7	H. A. Krisher.....	General blacksmithing .....	13 50
8	R. L. Mead.....	Repairing harness .....	4 10
9	William O. Myers.....	General horse-shoeing .....	1 40
10	Bowers & Conkle Lum. Co.	Lumber used on repairs.....	149 76
11	The Massillon Lumber Co.	Lumber used on repairs.....	132 42
12	Hemperly Hardware Co....	Hardware used on repairs.....	17 74
13	Hartel & Milar .....	Hardware used on repairs.....	31 52
14	The McNeil Boiler Co....	Repairs on steam dredge.....	199 93
15	G. A. Kempel & Co.....	Repairs on steam dredge.....	1 05
16	Taplin, Rice & Co.....	Repairs on steam dredge.....	26 38
17	G. Hanley .....	Coal for portable engine.....	7 00
18	Heiser, Van Camp & Carpenter .....	R. R. fare .....	9 90
19	D. Atwater & Son.....	Cement used on repairs.....	213 76
20	The Massillon Paper Co...	Straw used to cover sluice.....	1 86
21	East Ohio Gas Co.....	Gas used at offices.....	5 76
22	E. C. Taggart.....	Plumbing and supplies .....	8 15
23	The B. & O. R. R. Co....	Mileage book .....	30 00
24	The Massillon Water Supply Co. ....	Water used on dredge.....	36 65
25	H. G. Patton.....	Repairing buggy .....	42 65
26	Charles Hatch .....	Expenses as Supt. ....	61 15
27	F. W. Schaub.....	Messenger service .....	10 50
28	Citizens' Telephone Co....	Telephone service .....	10 00
29	Charles E. Perkins.....	Traveling expenses as chief engr.	12 50
	Pay roll of officers.....	Salaries .....	432 66
	Pay roll No. 1.....	Labor .....	154 50
	Pay roll No. 2.....	Labor .....	190 50
	Pay roll No. 3.....	Labor .....	700 96
	Dredge pay roll.....	Labor .....	97 13
	Total .....		\$2,672 85



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	and For What Paid.	Amount.
<i>January, 1906.</i>			
1	J. L. Johnston.....	Feeding state horse, etc.....	\$12 00
2	John Moore .....	Feeding state team, etc.....	23 33
3	Charles Savacool .....	Feeding state horse.....	10 00
4	Akron Plumbing & Heating Co. ....	Repairing pipes in barn.....	1 20
5	Brewster Coal Co.....	Coal furnished steam dredge....	14 63
6	The East Ohio Gas Co....	Gas furnished at offices.....	5 70
7	Robert & Son.....	Lumber used on repairs.....	2 08
8	A. Adamson .....	Bar and wrench for flood gates..	7 90
9	Peterson & Wright.....	Cement used on repairs.....	2 50
10	Bowers & Conkle Lumber Co. ....	Lumber used on new sluice.....	18 48
11	B. & O. R. R. Co.....	Mileage book .....	30 00
12	The Hemperly Hardware Co. ....	Hardware used on repairs.....	14 94
13	Akron People's Tel. Co....	Telephone service.....	21 65
14	H. A. Krisher.....	Repairs for flood gates at Massillon .....	5 85
15	David Atwater & Son.....	Cement and salt used at Massillon .....	23 10
16	E. Conners .....	Labor .....	20 00
17	Charles M. Knight.....	Chemical test of water.....	4 50
18	Charles Hatch .....	Expenses as supt.....	63 40
19	The Hankey Lumber Co...	Lumber used on repairs.....	19 30
20	Charles E. Perkins.....	Traveling expenses as chief engr..	13 70
21	F. W. Schaub.....	Messenger service .....	6 66
22	W. H. McClintock.....	Traveling expenses as Secretary..	5 00
23	William Kelley .....	Coal furnished .....	14 27
	Pay roll of officers.....	.....	432 66
	Pay roll No. 2.....	.....	115 50
	Pay roll No. 3.....	.....	399 89
	Dredge pay roll.....	.....	57 75
	Total .....	.....	\$1,345 99
<i>February, 1906.</i>			
1	Charles Hatch .....	Expenses as Supt.....	\$64 90
2	J. I. Johnston.....	Feeding state horse, etc.....	10 80
3	John Moore .....	Feeding state team, etc.....	21 40
4	Charles Savacool .....	Feeding state horse.....	12 49
5	Hardware Supply Co.....	Oakum used on repairs.....	50
6	Harter & Milar.....	Hardware used on repairs.....	14 73
7	H. Myers .....	General blacksmithing .....	7 70
8	Weil & Bisker.....	General blacksmithing .....	3 65
9	H. A. Fisher.....	Repairing pump .....	4 05
10	Ira Dreisbach .....	Stone used for building wall at Lock 1 .....	23 25
11	Cuyahoga Telephone Co....	Telephone service .....	57 65
12	Akron People's Tel. Co....	Telephone service .....	1 40
13	Western Union Tel. Co....	Message charges .....	83
14	Rohrbacker & Allen.....	Nails used on dredge.....	79
15	E. J. McLaughlin.....	Repairing mucker .....	29 22

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
16	Peterson & Wright.....	Cement used on repairs.....	16 88
17	The Hankey Lumber Co....	Lumber used on repairs.....	5 00
18	Akron Tent & Awning Co.	Canvas cover .....	13 00
19	East Ohio Gas Co.....	Gas used at offices.....	6 68
20	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	432 66
	Pay roll No. 2.....	.....	68 75
	Pay roll No. 3.....	.....	208 75
	Pay roll No. 4.....	.....	88 50
	Dredge pay roll.....	.....	18 20
	Total .....	.....	\$1,126 78
<i>March, 1906.</i>			
1	A. A. Likens.....	Labor performed .....	\$1,476 00
2	J. I. Johnston.....	Feeding state horse, etc.....	11 80
3	John Moore .....	Feeding state team, etc.....	34 50
4	Charles Savacool .....	Feeding state horse, etc.....	11 10
5	Harter & Milar.....	Hardware used on repairs.....	27 41
6	Myers Bros. ....	Hardware used on repairs.....	15 74
7	The Hemperly Hardware Co. ....	Hardware used on repairs.....	1 53
8	The Hankey Lumber Co....	Lumber used on repairs.....	8 52
9	The Massillon Lumber Co..	Lumber used on repairs.....	2 95
10	Taplin, Rice & Co.....	Repairs for steam dredge.....	38 46
11	The McNeil Boiler Co.....	Repairs for steam dredge.....	21 38
12	Brewster Coal Co.....	Coal for steam dredge.....	22 50
13	John Brunner .....	Repairs for steam dredge.....	16 80
14	G. A. Kempel & Co.....	Iron supplies for steam dredge..	6 15
15	Reid Bros. ....	Rubber boots .....	44 00
16	William O. Myers.....	Horse shoeing .....	5 80
17	Western Union Tel Co....	Message charges .....	75
18	East Ohio Gas Co.....	Gas used at offices.....	5 82
19	Charles Hatch .....	Expenses as Supt.....	71 50
20	Akron Plumbing & Heating Co. ....	Supplies .....	1 65
21	Akron People's Tel. Co....	Telephone service .....	10 40
22	Charles E. Perkins.....	Traveling expenses as chief engr.	12 00
23	Charles W. Diehl.....	Services .....	8 50
	Pay roll of officers.....	.....	432 66
	Pay roll No. 2.....	.....	232 12
	Pay roll No. 3.....	.....	287 75
	Dredge pay roll.....	.....	221 12
	Total for month.....	.....	\$3,028 91
<i>April, 1906.</i>			
1	Charles Savacool .....	Feeding state horse, etc.....	\$10 75
2	J. I. Johnston.....	Feeding state team, etc.....	11 80

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
3	John Moore .....	Feeding state team, etc.....	22 10
4	Miller Bros. ....	Boating gravel .....	25 00
5	Brad Voshell .....	Boating gravel .....	25 00
6	G. A. Kempel & Co.....	Iron for steam dredge.....	85
7	Taplin, Rice & Co.....	Repairs for steam dredge.....	4 09
8	Brewster Coal Co.....	Coal for steam dredge.....	24 39
9	R. L. Mead.....	Harness repairs .....	1 00
10	Thomas P. Howland.....	General horse shoeing.....	5 55
11	C. W. Riley.....	General horse shoeing.....	3 95
12	City Veterinary .....	Medicine for state horse.....	8 00
13	The Hankey Lumber Co...	Lumber used on repairs.....	6 70
14	Harter & Milar.....	Hardware used on repairs.....	41 66
15	East Ohio Gas Co.....	Gas used as offices.....	2 46
16	Charles Hatch .....	Expenses as Supt.....	70 10
17	Akron People's Tel. Co....	Telephone services .....	8 00
18	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	432 66
	Pay roll No. 2.....	.....	266 37
	Pay roll No. 3.....	.....	442 55
	Dredge pay roll.....	.....	247 62
	Total for month.....	.....	\$1,675 60
<i>May, 1906.</i>			
1	Charles Savacool .....	Feeding state horse, etc.....	\$11 60
2	J. I. Johnston.....	Feeding state horse, etc.....	12 50
3	John Moore .....	Feeding state team, etc.....	22 30
4	The Hemperly Hardware Co. ....	Hardware used on repairs.....	14 19
5	Myers Bros. ....	Hardware used on repairs.....	9 11
6	D. C. Smith.....	Hardware used an repairs.....	1 50
7	Harter & Milar.....	Hardware used on repairs.....	32 92
8	The Massillon Lumber Co..	Lumber used on repairs.....	9 47
9	Taplin, Rice & Co.....	Repairs for steam dredge.....	5 71
10	G. A. Kemper & Co.....	Repairs for steam dredge.....	1 43
11	Brewster Coal Co.....	Coal for steam dredge.....	24 89
12	R. L. Mead.....	Harness repairs .....	4 20
13	C. W. Riley.....	Blacksmithing .....	3 05
14	Koons Bros. ....	Livery .....	2 04
15	W. G. Johnston.....	Services rendered .....	50 00
16	East Ohio Gas Co.....	Gas used at offices.....	60
17	Akron People's Tel. Co....	Telephone service .....	3 25
18	Charles Hatch .....	Expenses as Supt.....	71 80
19	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	457 66
	Pay roll No. 2.....	.....	205 62
	Pay roll No. 3.....	.....	438 00
	Dredge pay roll.....	.....	258 50
	Total for month.....	.....	\$1,655 34



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>June, 1906.</i>			
1	J. H. Morrison.....	Expenses as Collector.....	\$7 93
2	J. I. Johnston.....	Feeding state horse, etc.....	11 00
3	John Moore .....	Feeding state team, etc.....	27 55
4	Myers Bros. ....	Hardware used on repairs.....	41 52
5	Harter & Milar .....	Hardware used on repairs.....	14 19
6	Summit Lumber Co.....	Lumber used on repairs.....	29 17
7	Summit Harness Co.....	Harness repairs .....	75
8	Weil & Bisker.....	General blacksmithing .....	6 75
9	H. Myers .....	General blacksmithing .....	8 50
10	William O. Myers.....	Horse shoeing .....	4 20
11	H. Simmons Coal Co.....	Coal furnished steam dredge.....	11 62
12	William Drury .....	Coal furnished steam dredge.....	18 90
13	D. A. Smith.....	Repairs on steam dredge.....	4 44
14	Andrew Oehl .....	Repairs on steam dredge.....	8 80
15	Taplin, Rice & Co.....	Repairs on steam dredge.....	3 80
16	McGee Bros. ....	Painting state boat No. 3.....	16 25
17	Donald B. Young.....	Inscription on state boat No. 3....	6 00
18	Hiser Bros. ....	Cutting grass on 10 mile level....	63 00
19	Peterson & Wright.....	Cement .....	8 10
20	The Burch Directory Co...	One directory .....	4 00
21	East Ohio Gas Co.....	Gas used as offices.....	34
22	Charles Hatch .....	Expenses as Supt.....	60 80
23	Charles Savacool .....	Feeding state horse.....	10 00
24	G. A. Kempel.....	Repairs for steam dredge.....	3 73
25	John Brunner .....	Repairs on scow and state boat..	15 85
26	Bargerton Feed Store.....	Cement .....	1 80
27	Akron People's Tel. Co....	Telephone service .....	12 05
28	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	457 66
	Pay roll No. 2.....	.....	174 37
	Pay roll No. 3.....	.....	449 75
	Dredge pay roll.....	.....	248 88
	Total for month.....	.....	\$1,746 70
<i>July, 1906.</i>			
1	James Roach .....	Freight bills, etc.....	\$2 55
2	J. I. Johnston.....	Feeding state horse, etc.....	11 55
3	John Moore .....	Feeding state team, etc.....	22 40
4	Charles Savacool .....	Feeding state horse, etc.....	10 35
5	The Hemperly Hardware Co. ....	Hardware used on repairs.....	7 28
6	Harter & Milar.....	Hardware used on repairs.....	37 00
7	William Donckley .....	Damaged property .....	10 00
8	Koons Bros. ....	Paint, etc. ....	3 08
9	H. A. Krisher.....	Blacksmithing .....	5 20
10	Thomas P. Howland.....	Blacksmithing .....	1 60
11	Taplin, Rice & Co.....	Repairs for steam dredge.....	38 80
12	The Russell & Co.....	Repairs on steam dredge.....	30 23
13	H. Simmons Coal Co.....	Coal for steam dredge.....	19 84
14	H. H. Pille.....	Rubber boots .....	19 00

ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
15	W. J. McCourt.....	Cleaning closet .....	10 37
16	City Veterinary Hospital...	Medicine .....	1 75
17	Akron People's Tel. Co....	Telephone service .....	1 20
18	Akron Plumbing & Heat- ing Co. ....	Supplies used at Lock 1.....	6 49
19	Akron Water Works Co...	Water rent at Lock 1.....	6 57
20	Charles Hatch .....	Expenses as Supt. ....	10 80
21	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
22	Lewis Young .....	For land purchased.....	400 00
	Pay roll of officers.....	Salaries .....	457 66
	Pay roll No. 2.....	Labor .....	233 50
	Pay roll No. 3.....	Labor .....	473 00
	Pay roll No. 4.....	Labor .....	228 00
	Total for month.....	.....	\$2,123 22.
August, 1906.			
1	J. H. Morrison.....	Expenses as collector.....	\$7 30
2	J. I. Johnston.....	Feeding state horse, etc.....	10 00
3	John Moore .....	Feeding state team, etc.....	22 75
4	Charles Savacool .....	Feeding state horse, etc.....	10 00
5	E. J. Williams.....	Flynet for state horse.....	3 00
6	Harter & Milar.....	Hardware used on repairs.....	35 14
7	Myers Bros. ....	Hardware used on repairs.....	30 40
8	The Fulton Pit Car Co....	Lumber used on repairs.....	10 00
9	The Russell & Co.....	Repairs on steam dredge.....	20 15
10	The Hess-Snyder Co. ....	Repairs and coal on steam dredge.	4 40
11	H. Myers .....	General blacksmithing .....	9 10
12	The Akron Plumbing and Heating Co. ....	Supplies at office at Lock 1.....	67
13	The Kraus-Keim Co.....	Supplies at office at Lock 1.....	5 75
14	Ashley, Ames & Son.....	Livery .....	2 00
15	Akron People's Tel. Co....	Telephone service .....	9 80
16	Hiser Bros. ....	Cutting grass .....	105 00
17	H. A. Fisher.....	Boat pump .....	5 32
18	Charles Hatch .....	Expenses as Supt.....	69 80
19	C. W. Bruce & Co.....	Harness repairs .....	2 45
20	Recorder of Summit Co....	Transferring of Young's deed....	1 10
21	Akron Tent-Awning Co....	Repairs on cover.....	50
22	Irving C. Rankin.....	Treatment and medicine for Selem Woods .....	18 00
23	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
24	G. A. Patton.....	Painting name on state boat....	10 00
	Pay roll of officers.....	Salaries .....	457 66
	Pay roll No. 2.....	Labor .....	142 23
	Pay roll No. 3.....	Labor .....	462 80
	Pay roll No. 4.....	Labor .....	252 82
	Total for month.....	.....	\$1,723 14



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>September, 1906.</i>			
1	Charles Savacool .....	Feeding state horse, etc.....	\$10 40
2	J. I. Johnston.....	Feeding state horse, etc.....	11 20
3	John Moore .....	Feeding state team, etc.....	22 50
4	Wash Carpenter .....	R. R. fare, etc.....	17 00
5	The Hemperly Hardware Co. ....	Repairs on steam dredge.....	6 76
6	The Hess-Snyder Co.....	Repairs on steam dredge.....	98 70
7	Myers Bros. ....	Repairs on steam dredge.....	6 96
8	E. L. Gilcher.....	Labor on steam dredge.....	2 00
9	The People's Coal Co.....	Coal for steam dredge.....	23 02
10	A. Adamson .....	Iron sledge .....	6 00
11	Harter & Milar.....	Hardware used on repairs.....	31 48
12	The Massillon Lumber Co.	Lumber used on repairs.....	10 16
13	William O. Myers.....	General horse shoeing.....	4 35
14	R. L. Mead.....	Leather halter .....	1 25
15	The Russell & Co.....	Smoke stack .....	1 31
16	East Ohio Gas Co.....	Gas used at office Lock 1.....	32
17	Akron Plumbing & Heating Co. ....	Supplies used at office Lock 1....	15
18	The Kraus-Keim Co.....	Supplies used at office Lock 1....	11 13
19	J. McGee & Co.....	Cutting grass .....	73 50
20	J. A. Smith.....	Wall paper .....	98
21	Charles Hatch .....	Expenses as Supt.....	69 40
22	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	457 66
	Pay roll No. 2.....	.....	129 12
	Pay roll No. 3.....	.....	260 12
	Pay roll No. 4.....	.....	206 13
	Pay roll No. 5.....	.....	319 87
	Total for month.....	.....	\$1,796 47
<i>October, 1906.</i>			
1	Charles Savacool .....	Feeding state horse.....	\$10 25
2	J. J. Johnston.....	Feeding state horse.....	10 00
3	John Moore .....	Feeding state horse.....	22 00
4	Harry Simmons .....	Coal for steam dredge.....	32 77
5	The Russell & Co.....	Repairs for steam dredge.....	10 81
6	The Hemperly Hardware Co. ....	Hardware for steam dredge.....	14 83
7	Harter & Milar.....	Hardware used on steam dredge..	33 37
8	U. G. Fredrick Lumber Co.	Lumber used on general repairs..	1 92
9	The Hankey Lumber Co...	Lumber used on general repairs..	4 00
10	Ashley Ames & Son.....	Livery from Newburg to 5 mile lock .....	2 00
11	Weil & Bisker.....	General blacksmithing .....	7 60
12	H. Myers .....	General blacksmithing .....	6 35
13	E. Porter .....	General blacksmithing .....	3 30
14	W. C. Keenan.....	Deering mower .....	10 00
15	Wash Carpenter .....	1 set single harness.....	5 00
16	East Ohio Gas Co.....	Gas used at offices.....	1 52



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
17	Akron Plumbing & Heating Co. ....	Repairs on Lock 1.....	6 57
18	Akron People's Tel. Co....	Telephone service .....	22 25
19	D. Atwater & Son.....	Telephone service .....	3 85
20	Charles Hatch .....	Expenses as Supt.....	62 65
21	C. E. Perkins.....	Traveling expenses as chief engr.	15 00
22	J. M. Jones.....	For office expenses.....	5 95
	Officers pay roll.....	.....	457 66
	Pay roll No. 2.....	.....	296 99
	Pay roll No. 3.....	.....	464 72
	Pay roll No. 4.....	.....	272 25
	Total for month.....	.....	\$1,783 61
<i>November, 1906.</i>			
1	J. H. Morrison.....	Expenses as collector.....	\$9 25
2	James Roach .....	Expenses as engr.....	3 60
3	John Moore .....	Feeding state team, etc.....	24 25
4	Charles Savacool .....	Feeding state team, etc.....	20 25
5	Smith & Reid.....	Rubber boots used on state boat..	27 50
6	H. H. Pille.....	Rubber boots used on state boat..	18 00
7	The Hemperly Hardware Co. ....	Supplies furnished steam dredge..	6 75
8	Harter & Milar.....	Hardware used on repairs.....	18 01
9	E. R. Gilcher.....	Repairs on boiler for steam dredge.	4 25
10	The McNeil Boiler Co....	Supplies for steam dredge.....	5 35
11	Harry Simmons .....	Coal for steam dredge.....	18 00
12	The People's Coal Co.....	Coal for steam dredge.....	13 55
13	R. L. Mead.....	Neck strap and harness repairs...	2 20
14	Hancock & Ritchie.....	Straw to fill beds on dredge cook boat .....	1 50
15	D. Atwater .....	Telephone service, etc.....	30 55
16	East Ohio Gas Co.....	Gas used at offices.....	3 10
17	B. L. Dodge.....	Office desk at supt.'s office.....	39 75
18	Charles Hatch .....	Expenses as supt.....	63 15
19	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Officers pay roll.....	.....	457 66
	Pay roll No. 2.....	.....	119 48
	Pay roll No. 3.....	.....	389 75
	Dredge pay roll.....	.....	253 50
	Total for month.....	.....	\$1,544 41

## ABSTRACT OF MONEY PAID.

By Charles Hatch, Superintendent Sub-Division No. 1, Grand Division No. 1,  
Ohio and Erie Canal, for Material and Labor for the Improvement of  
the Northern Division Ohio Canal.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>December, 1905.</i>			
1	C. B. Stebbins.....	Feeding state team etc.....	\$29 05
2	T. D. Paul.....	Expenses as civil engr.....	15 85
3	Hosea Paul .....	Expenses as civil engr.....	20 76
4	Ray I. Bachtell.....	R. R. fare and freight bills.....	13 29
5	Ed. L. Steinhour.....	R. R. fare.....	4 15
6	D. A. Williston.....	R. R. fare.....	17 20
7	George A. Patterson.....	R. R. fare.....	15 35
8	Ed. G. Major.....	R. R. fare.....	2 80
9	W. B. Watkins.....	R. R. fare.....	23 54
10	C. W. Lewis.....	R. R. fare.....	4 14
11	D. A. Ely.....	Livery .....	38 40
12	J. M. Jones.....	Coal oil, lanterns, etc., at weigh lock .....	2 30
13	J. J. Eberly.....	Repairs at weigh lock.....	7 35
14	McCourt & Ely.....	Work done by contract.....	200 00
15	French & Anderson.....	Painting buildings at weigh lock..	151 50
16	Peterson & Wright.....	Cement .....	330 75
17	Hamlet Lumber & Supply Co. ....	Cement .....	64 90
18	W. H. McCreery.....	Coal .....	6 36
19	A. Adamson .....	Material used for special work....	22 98
20	A. W. Shatts.....	Salt .....	6 25
21	William H. Mott.....	Frame for culvert at Peninsula..	2 50
22	A. H. Allen.....	New style for gates.....	5 04
23	Harter & Milar.....	Hardware for improvements.....	15 54
24	Reid Bros. ....	Rubber boots .....	24 50
25	C. G. Heinton.....	General blacksmithing .....	21 83
26	Western Union Tel. Co....	Message charges .....	75
27	F. Johns .....	Returning state horse.....	15 00
28	George E. Conner.....	Time and expense in finding horse.	10 00
	Pay roll No. 1.....	.....	434 00
	Pay roll No. 2.....	.....	798 20
	Pay roll No. 3.....	.....	123 75
	Pay roll No. 4.....	.....	344 50
	Pay roll No. 5.....	.....	34 14
	Total for month.....	.....	\$2,806 67
<i>January, 1906.</i>			
1	T. D. Paul.....	Expenses as civil engr.....	\$38 29
2	Hosea Paul .....	Expenses as inspector.....	24 60
3	D. A. Williston.....	Expenses as inspector.....	16 18
4	Ed. L. Steinhour.....	Expenses as engr.....	5 98
5	Ed. Major .....	Expenses as engr.....	10 91
6	D. A. Ely.....	R. R. fare.....	10 00
7	Raymond Bachtell .....	R. R. fare.....	51 69

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
8	D. A. Ely.....	Freight on timber.....	31 00
9	W. M. Kelley.....	Hauling concrete mixer.....	20 00
10	Braund-Vaughan Coal Co..	Coal for steam engine.....	7 79
11	A. W. Shatts.....	Salt for A. A. Likens.....	8 75
12	Hugh L. Beavis.....	Gravel .....	60 00
13	Peterson & Wright.....	Cement .....	96 45
14	Fred E. Greer.....	Hauling castings .....	5 00
15	W. B. Watkins.....	Expenses as inspector and supplies	25 03
16	The Mead Lumber Co.....	Lumber used on repairs.....	75 40
17	The Burger Iron Co.....	Lock construction.....	66 44
18	American Scrap Iron Co...	Aqueduct construction .....	9 00
19	Ira Dreisbach .....	R. R. fare.....	6 52
20	P. T. McCourt.....	Livery (by Paul).....	16 20
21	Conrad Keist .....	Hauling and freight bills.....	4 25
23	W. M. Pattison Supply Co.	Supplies .....	36 12
24	The Hamlet Lumber Supply Co. ....	Cement used by Likens.....	430 38
25	Thomas Wilson .....	Livery (by Paul).....	1 00
26	G. A. Kempel.....	Supplies .....	1 72
27	Carpenter, Van Kamp & Wilds .....	R. R. fare.....	19 69
28	Charles Stebbins .....	Feeding state team, etc.....	24 85
29	Andrew Stuart .....	Livery (by Paul).....	35 37
30	Anna E. Beers.....	Hardware used on repairs.....	3 61
31	H. F. Peck.....	Prints .....	42 00
32	W. M. Pattison Supply Co.	Rent of engine (by Likens).....	70 00
	Pay roll No. 1.....	.....	328 75
	Pay roll No. 2.....	.....	554 61
	Pay roll No. 3.....	.....	694 75
	Pay roll No. 4.....	.....	296 50
	Pay roll No. 5.....	.....	1,201 21
	Total for month.....	.....	\$4,330 04
February, 1906.			
1	C. B. Stebbins.....	Feeding state team, etc.....	\$25 45
2	T. D. Paul.....	Expenses as civil engr.....	7 80
3	W. B. Watkins.....	R. R. fare as inspector.....	6 25
4	W. B. Watkins.....	R. R. fare as inspector.....	16 44
5	Hosea Paul .....	R. R. fare.....	11 30
6	Raymond I. Bachtell.....	R. R. fare.....	11 42
7	D. A. Williston.....	R. R. fare.....	5 29
8	Ed. G. Major.....	R. R. fare.....	3 85
9	Harter & Milar.....	Hardware used on repairs.....	9 10
10	Peterson & Wright.....	Cement used on repairs.....	17 75
11	Dayton A. Ely.....	Labor performed .....	33 90
12	Cleveland Paper Mfg. Co..	Labor performed .....	125 94
13	Slusser-McLean Scraper Co	Material used for flood gates....	2 33
14	Hugh H. Beavis .....	Gravel .....	11 25
15	M. O'Neil & Co.....	Office supplies .....	7 20
16	Charles M. Knight.....	Services rendered .....	12 50



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
	Pay roll No. 1.....	.....	253 75
	Pay roll No. 2.....	.....	489 00
	Total for month.....	.....	\$1,350 52
	<i>March, 1906.</i>		
1	C. B. Stebbins.....	Feeding state team, etc.....	\$24 98
2	T. D. Paul.....	Expenses as engr.....	22 90
3	Frank Bonstedt .....	Expenses as inspector.....	23 93
4	W. B. Watkins.....	Expenses as inspector.....	10 69
5	Ed. L. Steinhour.....	Survey of Adamson property....	4 25
6	C. G. Heinton.....	Blacksmithing .....	19 54
7	Harter & Milar.....	Hardware .....	5 80
8	The McIntosh Hardware Co. ....	Hardware .....	10 60
9	M. O'Neil & Co.....	Office supplies .....	3 30
10	J. C. Ulmer & Co.....	Overhauling rods .....	3 65
	Pay roll No. 1.....	.....	244 00
	Pay roll No. 2.....	.....	509 25
	Pay roll No. 3.....	.....	80 50
	Total for month.....	.....	\$963 39
	<i>April, 1906.</i>		
1	C. B. Stebbins.....	Feeding state team, R. R. fare, etc.	\$41 31
2	T. D. Paul.....	Expenses as civil engr.....	16 36
3	Frank Bonstedt .....	R. R. fare.....	29 40
4	R. I. Bachtell.....	R. R. fare.....	35 94
5	Ed. G. Major.....	R. R. fare.....	8 30
6	W. B. Watkins.....	R. R. fare.....	13 04
7	Mary Paul .....	Typewriting .....	13 50
8	E. J. McLaughlin.....	Lumber used on repairs.....	241 74
9	Mead Lumber Co.....	Lumber used on repairs.....	21 60
10	Harter & Milar.....	Hardware used on repairs.....	30 95
11	Peterson & Wright.....	Cement used on repairs.....	63 00
12	The M. O'Neil Co.....	Office supplies .....	10 35
13	P. A. Alcox.....	Tape measure .....	5 00
14	Walter L. Sackmann.....	Brass figures .....	3 00
15	Ralph W. Bar.....	Supplies .....	6 25
16	C. H. Burgess.....	Cement delivered to A. A. Likens.	61 71
17	John A. Hanlon.....	Expenses as engr.....	84 00
	Pay rolls Nos. 1 and 2.....	.....	862 50
	Pay roll No. 3.....	.....	522 56
	Total for month.....	.....	\$2,070 51

ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		May, 1906.	
1	C. B. Stebbins.....	Feeding state team, etc.....	\$30 95
2	T. D. Paul.....	Expenses as civil engr.....	31 32
3	Sam J. Hibbs.....	R. R. fare.....	19 05
4	Frank Bonstedt .....	R. R. fare.....	26 30
5	A. H. Johnston.....	R. R. fare.....	17 15
6	R. I. Bachtell.....	R. R. fare.....	20 93
7	W. B. Watkins.....	R. R. fare.....	11 00
8	Ed. G. Major.....	R. R. fare.....	31 20
9	E. J. McLaughlin.....	Labor and material.....	55 76
10	C. H. Burgess.....	Car for shipping stone.....	73 83
11	C. Keist .....	Teaming .....	5 50
12	The Atlantic Foundry Co..	Draying .....	37 75
13	W. H. Lawless.....	Livery .....	9 50
14	P. T. McCourt.....	Livery .....	2 50
15	Ashley Ames & Son.....	Livery .....	2 50
16	Mead Lumber Co.....	Lumber .....	153 28
17	Hardware & Supply Co....	Hardware .....	11 16
18	Harter & Milar.....	Hardware .....	22 79
19	Charles M. Knight.....	Determining gravity of stone....	1 50
20	L. Loveman .....	Rubber boots .....	23 75
21	N. L. Moody.....	Rubber boots .....	3 50
22	The Mitchell Bros. Co....	Dynamite .....	13 42
23	H. F. Peck.....	Prints .....	10 00
24	Akron Tent & Awning Co.	Hip roof tent.....	22 00
25	Peterson & Wright.....	Cement .....	32 11
26	W. M. Pattison Supply Co.	Supplies used on repairs.....	44 21
27	The Burger Iron Co.....	Iron supplies used at Peninsula...	40 10
28	Franklin Bros. ....	Sand .....	4 50
29	John Zimmerman .....	Protection stone .....	81 25
30	South Brooklyn Coal Co...	Coal .....	73 38
	Pay roll No. 1.....	.....	719 73
	Pay roll No. 2.....	.....	622 75
	Pay roll No. 3.....	.....	526 30
	Total .....	.....	\$2,780 97
		June, 1906.	
1	C. B. Stebbins.....	Feeding state team, etc.....	\$36 31
2	T. D. Paul.....	Expenses as civil engr.....	24 70
3	A. A. Likens.....	Engine, etc. ....	400 00
4	L. Seeley .....	Use and damage of grounds.....	20 00
5	C. H. Burgess.....	R. R. fare.....	81 54
6	Raymond I. Bachtell.....	R. R. fare.....	30 72
7	W. B. Watkins.....	R. R. fare.....	15 70
8	Sam J. Hibbs.....	R. R. fare.....	15 60
9	E. G. Major.....	R. R. fare.....	32 75
10	A. H. Johnson.....	R. R. fare, etc.....	2 95
11	Frank Bonstedt .....	R. R. fare.....	22 05
12	The Hardware & Supply Co. ....	Hardware used on repairs.....	3 44
13	Anna E. Beers.....	Hardware used on repairs.....	16 98

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
14	Harter & Milar.....	Hardware used on repairs.....	47 28
15	G. M. Boodey.....	General blacksmithing .....	6 70
16	H. Myers .....	General blacksmithing .....	3 70
17	South Brooklyn Coal Co...	Coal for 5 mile lock improve- ment .....	17 50
18	Frank Hamilton .....	Coal for 5 mile lock improve- ment .....	6 95
19	W. H. Lawless.....	Livery .....	13 50
20	The Mills Carleton Co.....	Hemlock plank .....	70 00
21	Peterson & Wright.....	Cement .....	82 50
22	Peter Schmidt .....	Gravel .....	68 25
23	U. G. Frederick Lumber Co.	Lumber .....	16 05
	Pay roll No. 1.....	.....	481 37
	Pay roll No. 2.....	.....	514 50
	Pay roll No. 3.....	.....	172 00
	Pay roll No. 4.....	.....	402 00
	Total for month.....	.....	\$2,605 04
<i>July, 1906.</i>			
1	C. B. Stebbins.....	Feeding state team, etc.....	\$40 50
2	T. D. Paul.....	Expenses as civil engr.....	19 55
3	W. B. Watkins.....	R. R. fare.....	12 00
4	Sam J. Hibbs.....	R. R. fare.....	8 00
5	M. Heiser & Van Camp....	R. R. fare.....	37 60
6	Ed. Major .....	R. R. fare.....	9 25
7	E. J. McLaughlin.....	Extra work on lock gates.....	31 50
8	Raymond I. Bachtell.....	Freight bills, etc.....	3 50
9	A. H. Johnson.....	Freight bills, etc.....	40 55
10	The Atlantic Foundry Co..	Machining 22 gate irons.....	5 50
11	C. H. Burgess.....	1 car stone.....	35 28
12	The Bellevue Stone Co....	1 car stone.....	55 00
13	Crowell & Peck.....	Inspecting Iroquois cement.....	15 00
14	Harter & Milar.....	Hardware used on repairs.....	22 45
15	The Hardware & Supply Co. ....	Hardware used on repairs.....	11 62
16	Anna E. Beers.....	Hardware used on repairs.....	14 38
17	Conrad Keist .....	Coal .....	15 55
18	G. P. Harrington.....	Coal .....	11 55
19	G. M. Boodey.....	Blacksmithing .....	4 15
20	Akron Transfer Co.....	Livery .....	2 00
21	P. T. McCourt.....	Livery .....	7 50
22	W. C. Mott.....	Repairing .....	19 45
23	M. Brown .....	Gravel .....	8 30
24	The Upson-Walton Co.....	Repairs on state boat No. 1.....	14 67
25	W. M. Pattison Supply Co.	Repairs for state boat No. 1.....	9 85
26	E. J. McLaughlin.....	Repairs and lumber for state boat No. 1 .....	118 27
27	Mitchell Bros. Co.....	Nails, etc., for state boat No. 1..	3 45
28	The Meade Lumber Co....	Lumber on improvement.....	318 83
29	The Hankey Lumber Co..	Lumber on improvement.....	10 00



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
30	The Hamlet Lumber & Supply Co. ....	Lumber on improvement.....	23 82
31	Erwin Murphy .....	For right of way.....	20 00
32	C. Carl Dietz.....	For land sold State of Ohio.....	100 00
	Pay roll No. 1.....	.....	339 00
	Pay roll No. 2.....	.....	579 17
	Pay roll No. 3.....	.....	419 50
	Pay roll No. 4.....	.....	409 83
	Total for month.....	.....	\$2,796 57
<i>August, 1906.</i>			
1	C. B. Stebbins.....	Feeding state team, etc.....	\$31 45
2	T. D. Paul.....	Expenses as civil engr.....	54 35
3	Frank Bonstedt .....	R. R. fare, etc.....	50 05
4	W. B. Watkins.....	R. R. fare, etc.....	10 20
5	C. H. Burgess.....	Iron supplies .....	102 87
6	R. I. Bachtell.....	R. R. fare, etc.....	4 76
7	A. H. Johson.....	R. R. fare and freight bills.....	6 25
8	Akron Lumber Co.....	Lumber used on improvement....	5 00
9	R. Hopkins .....	Lumber used on improvement....	3 08
10	The Summit Lumber Co...	Lumber used on improvement....	23 20
11	E. J. McLaughlin.....	Lumber used on improvement....	7 20
12	U. G. Fredrick Lumber Co.	Lumber used on improvement....	12 00
13	The Bellevue Stone Co....	Stone used on improvement.....	97 69
14	Julia Wood .....	Sand used on improvement.....	10 00
15	Harter & Milar.....	Hardware used on improvement..	6 01
16	A. Adamson .....	Supplies used on improvement....	4 37
17	The American Scrap Iron Co. ....	Iron used on improvement.....	22 40
18	G. A. Kempel & Co.....	Iron used on improvement.....	9 45
20	Conrad Keist .....	Coal .....	28 37
21	American Steel & Wire Co.	Iron for lock 41.....	11 53
22	Cuyahoga County .....	Raising bridges in Cuyahoga County .....	84 00
	Pay roll No. 1.....	.....	343 25
	Pay roll No. 2.....	.....	531 49
	Pay roll No. 3.....	.....	486 50
	Pay roll No. 4.....	.....	283 00
	Total for month.....	.....	\$2,228 47
<i>September, 1906.</i>			
1	C. B. Stebbins.....	Feeding state team, etc.....	\$45 58
2	T. D. Paul.....	Expenses as civil engr.....	33 98
3	Paul Bros. ....	Typewriting, etc. ....	16 20
4	W. B. Watkins.....	R. R. fare, etc.....	11 90
5	Ed. G. Major.....	R. R. fare, etc.....	14 17
6	George E. Corner.....	R. R. fare, etc.....	8 00

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
7	C. H. Burgess.....	Stone for A. A. Likens.....	272 40
8	American Scrap Iron Co...	Rails for Feeder bridge, Penin- sula .....	12 00
9	B. B. Bam.....	Loading plank, etc.....	14 38
10	The Bellevue Stone Co....	Stone at Peninsula.....	54 25
11	The Austin Powder Co....	Sand .....	65 75
12	C. Keist .....	Teaming .....	3 67
13	W. H. Lawless.....	Livery .....	4 00
14	G. M. Boodey.....	Dressing tools, etc.....	11 25
15	B. T. Savacool .....	Repairing harness .....	4 10
16	W. A. McClellan.....	Repairing offices at lock 1, etc..	42 44
17	Will H. Stare.....	Lumber .....	28 25
18	G. A. Kempel.....	Iron supplies .....	1 34
19	The Hardware & Supply Co	Hardware used on improvement..	29 03
	Pay roll No. 1.....	.....	348 50
	Pay roll No. 2.....	.....	467 75
	Pay roll No. 3.....	.....	389 00
	Total for month.....	.....	\$1,877 94
October, 1906.			
1	C. B. Stebbins.....	Feeding state team, etc.....	\$34 35
2	T. D. Paul.....	Expenses as civil engr.....	26 34
3	Ed. Major .....	R. R. fare.....	4 60
4	John M. Crawford.....	R. R. fare and expenses as in- spector .....	13 55
5	W. B. Watkins.....	R. R. fare and expenses as in- spector .....	20 40
6	Raymond I. Bachtell.....	R. R. fare and expenses as in- spector .....	25 65
7	W. M. Pattison Supply Co.	Rent of Emerson pump.....	9 00
8	The Hardware Supply Co..	Nails, etc. ....	2 85
9	J. C. Ulmer & Co.....	Tape .....	7 20
10	The Massillon Iron & Steel Co. ....	Pipe, etc. ....	387 07
11	The American Scrap Iron Co. ....	Rails used at Botzum culvert....	14 40
12	Peterson & Wright .....	Cement used at Botzum culvert...	62 40
13	Eli W. Cannell.....	Salt .....	5 00
14	N. L. Moody.....	Rubber boots .....	30 00
15	The Guy & Ralph Gray Co.	Derricks .....	38 40
16	South Brooklyn Coal Co..	Coal for steam dredge.....	51 15
17	Barnes & Conklin Lumber Co. ....	Lumber for Cleveland lock gates.	254 06
18	A. A. Richardson.....	Services rendered .....	27 50
	Pay roll No. 1.....	.....	432 50
	Pay roll No. 2.....	.....	612 00
	Pay roll No. 4.....	.....	114 25
	Total for month.....	.....	\$2,172 67

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>November, 1906.</i>			
1	Charles Stebbins .....	Feeding state team, etc.....	\$25 45
2	T. D. Paul.....	Expenses as civil engr.....	27 80
3	John M. Crawford.....	R. R. fare.....	18 95
4	W. B. Watkins.....	R. R. fare.....	2 60
5	R. I. Bachtell.....	R. R. fare.....	15 03
6	Peter Schmit .....	Gravel for extension on sluice gates .....	22 50
7	D. E. Sullivan & Son.....	Gravel and sand.....	619 95
8	Neinhuser Bros. ....	Coal for pumping outlet lock at Cleveland .....	46 43
9	A. A. Likens.....	Services as stone mason, etc.....	164 75
10	South Brooklyn Co.....	Coal used 5 mile lock.....	3 30
11	The J. C. Ulmer Co.....	Repairs on K. & C. transit.....	8 70
12	C. H. Hoyt Mfg. Co.....	53 gals. avenama varbolineum....	37 10
13	Eli W. Cannell.....	Cement used on sluice gate at P. Smithe bridge.....	53 21
14	Peterson & Wright.....	Cement used on culvert near Bot- zum .....	103 84
15	The American Scrap Iron Co. ....	Rails used at 11 mile waste weir.	48 00
16	The Paragon Insulative Co.	Rails .....	75 00
17	J. H. Green.....	Damage of potatoes.....	15 00
18	The Bellevue Stone Co....	Stone for culvert at Botzum.....	51 13
19	The Hardware & Supply Co. ....	Machine bit .....	1 00
20	W. M. Patterson Supply Co	Supplies for derrick.....	117 78
21	J. J. Eberle.....	Supplies for gates at Cleveland..	61 50
22	The Krause Hardware Co..	Smoke stack for hoisting engine..	3 56
23	Fitzer & Co.....	Canal gates .....	38 50
24	Austin Powder Co.....	Repairing tools .....	12 10
	Pay roll No. 1.....	.....	388 49
	Pay roll No. 2.....	.....	530 46
	Pay roll No. 3.....	.....	398 00
	Total for month.....	.....	\$2,889 93



ABSTRACT OF MONEY PAID.

By Charles Hatch, Superintendent Division No. 1, Sub-Division No. 1, Ohio Canal, for Material and Labor for Repairs at Portage Lakes.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>June, 1906.</i>	
	Portage Lake pay roll.....	.....	\$50 25
	Total for month.....	.....	\$50 25
		<i>July, 1906.</i>	
	Pay roll No. 1.....	.....	\$64 75
	Total for month.....	.....	\$64 75
		<i>August, 1906.</i>	
	Pay roll No. 1.....	.....	\$116 37
	Total for month.....	.....	\$116 37

ABSTRACT OF MONEY PAID.

By Charles H. Geidel, Superintendent Sub-Division No. 2, Grand Division No. 1, Ohio and Erie Canal, for Material and Labor for the Maintenance and Repair of the Public Works.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>December, 1905.</i>	
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team .....	20 00
3	W. H. Wilson.....	Expenses as collector.....	1 30
4	L. P. Wilson.....	R. R. fare.....	3 00
5	Wilgus Hardware Co.....	1 pump for boat.....	3 00
6	A. L. Norman.....	R. R. fare.....	3 20
7	Citizens Telephone Co.....	Rent of telephone, Oct. 1-Dec. 31.	3 75
8	J. R. Stewart.....	Repairing buggy for Foreman....	4 60
9	Adams & Gleason.....	Oak lumber .....	5 91

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom:	And For What Paid.	Amount.
10	C. Norman .....	Livery for Wilson.....	6 50
11	Samuel Shaeffer .....	Iron for derrick repairs.....	15 20
12	Charles H. Geidel.....	Expenses as supt.....	53 65
13	Charles E. Perkins.....	Traveling expenses as chief engr.	10 00
14	W. H. McClintock.....	Sundries as per bill.....	4 20
15	F. W. Schaub.....	Messenger service .....	10 50
16	Samuel Bachtell .....	Traveling expenses as asst. engr.	4 50
	Pay roll of officers.....	.....	259 16
	Pay roll No. 1.....	.....	167 52
	Pay roll No. 2.....	.....	70 50
	Total for month.....	.....	\$666 49
<i>January, 1906.</i>			
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team .....	20 00
3	W. H. Wilson.....	Expenses as collector.....	2 10
4	M. S. Harvey.....	Expenses as collector.....	3 05
5	J. A. Bell.....	Hardware supplies for Norman..	3 35
6	Age Publishing Co.....	500 notices Canal Laws, Sec. 51-52-53 .....	3 50
7	Estate of Samuel Hilton...	100 yds. earth for fill Trenton feeder .....	5 00
8	A. T. Lechty.....	200 yds. earth for fill Trenton feeder .....	8 00
9	L. P. Wilson.....	Traveling expenses and telephone.	11 45
10	C. H. Geidel.....	Expenses as supt.....	49 10
11	G. W. Hilton.....	3 mos. rent Wave Mill Dam.....	75 00
12	Zoar Mills .....	Rent Zoar Dam, year 1905.....	100 00
13	Charles E. Perkins.....	Traveling expenses as chief engr.	9 00
14	F. W. Schaub.....	Messenger service .....	6 66
15	W. H. McClintock.....	Traveling expenses as secretary..	5 00
16	Leo Veit .....	Services in finding stolen transit..	25 00
	Pay roll of officers.....	.....	258 16
	Pay roll No. 1.....	.....	167 45
	Pay roll No. 2.....	.....	115 40
	Total for month.....	.....	\$888 22
<i>February, 1906.</i>			
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team .....	20 00
3	W. H. Wilson.....	Expenses as collector .....	6 00
4	G. W. Miskimen.....	1 ax and handle.....	1 15
5	R. R. Parcell.....	Blacksmith work .....	1 45
6	J. A. Bell.....	Hardware .....	1 85
7	Alonzo Clark .....	Rubber boots .....	3 25
8	A. L. Norman.....	Telephone rent and R. R. fare....	5 25
9	The I. Crater Co.....	Hardware .....	6 10

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
10	L. P. Wilson.....	Traveling expenses .....	9 40
11	C. H. Geidel.....	Expenses as supt.....	59 15
12	Samuel Bachtell .....	Traveling expenses as asst. engr.	3 60
13	Charles E. Perkins.....	Traveling expenses as chief engr.	10 00
	Pay roll of officers.....	.....	259 16
	Pay roll No. 1.....	.....	242 37
	Pay roll No. 2.....	.....	155 50
	Total for month.....	.....	\$804 23
<i>March, 1906.</i>			
1	L. P. Wilson .....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team .....	20 00
3	M. S. Harvey.....	Expenses as collector.....	7 45
4	Williams Ginnery .....	Hardware .....	3 00
5	R. Rieser .....	Hardware .....	6 00
6	Robert Hug .....	Duck for state boat deck.....	6 65
7	T. D. Neighbor.....	Lumber for repairing break at Navarre .....	7 50
8	Zinsmaster & Fisher.....	Hardware .....	9 10
9	H. W. Westhafer.....	Dynamite, caps, fuse, etc.....	9 65
10	L. P. Wilson.....	Traveling expenses .....	10 25
11	Clyde Wand .....	Team furnished Wilson.....	3 25
12	J. R. Stewart.....	Repairing buggy .....	12 00
13	Charles H. Geidel.....	Expenses as supt.....	53 90
14	Charles E. Perkins.....	Traveling expenses as chief engr.	10 00
15	Samuel Bachtell .....	Traveling expenses as asst. engr.	5 15
16	Charles W. Diehl.....	Services rendered as per bill.....	8 00
	Pay roll of officers.....	.....	269 16
	Pay roll No. 1.....	.....	171 50
	Pay roll No. 2.....	.....	159 24
	Total for month.....	.....	\$791 80
<i>April, 1906.</i>			
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team .....	20 00
3	C. S. Frazier.....	Hardware .....	1 00
4	J. L. Mackey.....	Tree for balance beam.....	2 50
5	H. G. Steeler.....	Rubber boots .....	3 25
6	C. R. Carr.....	Blacksmithing .....	3 40
7	L. P. Wilson.....	Traveling expenses .....	5 15
8	O. P. Taylor & Son.....	Rope .....	10 50
9	A. L. Norman.....	Traveling expenses and tel. rent..	7 20
10	Alonzo Clark .....	Rubber boots .....	10 50
11	Joseph Mulvane & Co.....	Paint, oil, etc., for state boat....	14 75
12	Gray Hardware Co.....	Wheelbarrows .....	15 50
13	Samuel Stettler .....	Rubber boots .....	20 00
14	Geo. B. Deardorff & Son..	Hardware .....	23 31



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
15	Coshocton Lumber Co.....	Lumber .....	23 52
16	D. F. Lash.....	Rope, etc. ....	31 95
17	James A. Bell.....	Hardware .....	34 35
18	G. W. Hilton.....	Rent of Dam to July 12th, 1906..	75 00
19	Charles H. Geidel.....	Expenses as supt.....	55 05
20	Margaret S. Harvey.....	Expenses as collector.....	1 35
21	William H. Wilson.....	Expenses as collector.....	2 35
22	Zinsmaster & Fisher.....	Grass hook and shovel.....	1 10
23	Samuel Bachtell .....	Traveling expenses as asst. engr.	6 80
24	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	269 16
	Pay roll No. 1.....	.....	451 20
	Pay roll No. 2.....	.....	308 25
	Pay roll No. 3.....	.....	123 00
	Total for month.....	.....	\$1,555 14
<i>May, 1906.</i>			
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team and freight.....	20 75
3	W. H. Wilson.....	Expenses as collector.....	7 40
4	R. H. Mulvane.....	Lumber .....	1 04
5	A. H. Thompson & Son....	Cement for Lewisville culvert....	1 05
6	C. Bence .....	Hardware .....	1 80
7	C. L. Wand.....	Livery .....	2 75
8	S. A. Conrad.....	Two steel blocks.....	2 80
9	R. R. Parcell.....	Blacksmith work .....	3 05
10	C. H. Klein.....	Hardware supplies .....	3 25
11	F. Wentz .....	Lumber for Sugar Creek Dam...	3 54
12	H. A. Harger.....	Hardware .....	3 75
13	Levi Williams .....	Legal services .....	5 00
14	L. P. Wilson.....	Incidental expenses .....	6 97
15	Citizens Tel. Co. ....	6 mos. telephone service, supt.'s office .....	7 50
16	R. Reiser .....	Hardware supplies .....	7 52
17	Samuel Stettler .....	Rubber boots .....	9 50
18	Gray Hardware Co.....	Wheel barrows .....	15 50
19	George B. Deardorff & Son	Rope, hoe, nails.....	25 15
20	W. G. Johnston.....	Services rendered .....	50 00
21	B. W. Ricketts.....	Hardware supplies .....	51 95
22	C. H. Geidel .....	Expenses as supt.....	58 85
23	Samuel Shaffer .....	Services rendered .....	4 65
24	Charles E. Perkins.....	Traveling expenses as chief engr.	12 50
	Pay roll of officers.....	.....	294 16
	Pay roll No. 1.....	.....	496 35
	Pay roll No. 2.....	.....	253 00
	Pay roll No. 3.....	.....	336 25
	Pay roll No. 4.....	.....	97 50
	Total for month.....	.....	\$1,803 53

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Telephone rent, feeding team, etc.	24 00
3	W. H. Wilson.....	Expenses as collector.....	1 50
4	M. S. Harvey.....	Expenses as collector.....	10 80
5	W. A. Emerson.....	Timber for Turkey Lock.....	1 50
6	D. F. Lash.....	Rope etc. ....	2 00
7	L. P. Wilson.....	Traveling expenses, nails, etc....	3 20
8	C. S. Frazier.....	Supplies for repairing Dresden lock .....	11 00
9	A. H. Thomson & Son.....	Cement for Dresden lock.....	19 96
10	E. J. Neff.....	Timber for Tucker's lock.....	42 38
11	A. H. Compton.....	Repairing harness .....	7 75
12	H. A. Smith.....	Nails, shovel .....	71
13	C. H. Geidel.....	Expenses as supt.....	56 70
14	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	294 16
	Pay roll No. 1.....	.....	419 50
	Pay roll No. 2.....	.....	297 50
	Pay roll No. 3.....	.....	171 25
	Pay roll No. 4.....	.....	122 74
	Total for month.....	.....	\$1,521 65
<i>July, 1906.</i>			
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team .....	20 00
3	S. C. Detrich.....	Scythe and snath .....	1 25
4	George B. Deardorff & Son	Hardware .....	1 75
5	R. R. Parcell.....	Blacksmithing .....	2 45
6	L. P. Wilson.....	Livery, telephone messages.....	2 50
7	J. F. Reiser.....	Cotton, bucket, cement.....	5 08
8	J. A. Bell.....	Hardware supplies .....	10 90
9	A. L. Norman.....	Making fill at Clark's bridge.....	12 40
10	G. W. Hilton.....	3 mos. rent Wave Mill Dam.....	75 00
11	C. H. Geidel .....	Expenses as supt.....	57 60
12	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
13	John Wilson .....	Making gates lock No. 20.....	50 00
14	J. N. Kissner.....	Driving piling .....	1,645 00
	Pay roll of officers.....	.....	294 16
	Pay roll No. 1.....	.....	363 60
	Pay roll No. 2.....	.....	289 25
	Total for month.....	.....	\$2,865 94
<i>August, 1906.</i>			
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team .....	20 00
3	W. H. Wilson.....	Expenses as collector.....	1 15
4	M. S. Harvey.....	Expenses as collector.....	10 90



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
5	The I. Crater Co.....	Hardware .....	1 05
6	L. P. Wilson.....	Freight, drayage, telephone mess. etc. ....	2 05
7	R. Reiser .....	Hardware .....	2 10
8	Gleason Lumber Co.....	Lumber .....	2 13
9	Zinsmaster & Fisher.....	Axes .....	2 25
10	Columbus Bolt Works.....	Bolts for gates Locks 20 and 21..	2 30
11	Geo. B. Deardorff & Son...	Rope and oil cloth.....	3 19
12	A. L. Norman.....	R. R. fare, wedges, etc.....	3 30
13	The I. Crater Co.....	Hardware .....	4 40
14	William Ginnery .....	Blacksmith work .....	6 65
15	Al Shoman .....	Traveling expenses .....	13 00
16	John Bimeler .....	Piles for bank near Trenton.....	31 02
17	G. W. Miskimen.....	Lumber for locks 27.....	48 92
18	John Wilson .....	Labor on gate for lock 27.....	50 00
19	C. H. Geidel.....	Expenses as supt.....	55 05
20	Archie Clark .....	Teams .....	5 00
21	C. M. Hay.....	Views of the Dresden locks.....	5 69
22	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	294 16
	Pay roll No. 1.....	.....	322 70
	Pay roll No. 2.....	.....	318 00
	Total for month.....	.....	\$1,240 01
<i>September, 1906.</i>			
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team .....	20 00
3	M. S. Harvey.....	Expenses as collector.....	1 45
4	W. H. Wilson.....	Expenses as collector.....	2 75
5	W. U. Tel. Co.....	Telegraph service .....	1 00
6	D. F. Lash.....	Ladder .....	1 60
7	Geo. B. Deardorff & Son...	Pick handles, rope.....	2 28
8	A. H. Thompson & Son....	Cement for Turkey lock slides....	3 25
9	L. Stemple .....	Blacksmith work .....	3 50
10	Coshocton Hardware Co...	Rope and express .....	3 64
11	A. Shoman .....	Traveling expenses .....	5 90
12	L. P. Wilson.....	Telephone rent, etc.....	8 30
13	F. W. Wise.....	Blacksmith work .....	17 55
14	George Pharion .....	Blacksmith .....	2 40
15	Charles H. Geidel.....	Expenses as supt.....	59 45
16	Citizen's Tel. Co.....	3 mos. rent of telephone.....	3 75
17	M. Wimmer, J. P.....	Jurors' fees in Dobson case.....	4 50
18	W. S. Shore.....	Cleaning outside cut.....	9 75
19	Charles E. Perkins.....	Traveling expenses of chief engr.	15 00
	Pay roll of officers.....	.....	294 16
	Pay roll No. 1.....	.....	292 35
	Pay roll No. 2.....	.....	273 50
	Pay roll No. 3.....	.....	291 80
	Total for month.....	.....	\$1,337 88



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>October, 1906.</i>			
1	L. P. Wilson.....	Feeding team .....	\$20 00 <sup>a</sup>
2	A. L. Norman.....	Telephone rent and feeding team.	23 00
3	M. S. Harvey.....	Expenses as collector.....	9 17
4	A. N. Compton & Co.....	3 hitch straps.....	1 05
5	R. R. Parcell.....	Blacksmith work .....	1 65 <sup>a</sup>
6	L. P. Wilson.....	Livery and telegraph messages...	1 75
7	Adams & Gleason.....	Lumber for Norman.....	2 64
8	A. Clark .....	1 pr. hip boots.....	5 50
9	Geo. B. Deardorff & Son...	Hardware .....	6 05
10	S. Stemple .....	Blacksmith work .....	6 75
11	James A. Bell.....	Hardware .....	18 40
12	C. E. Camp.....	Livery for supt., foreman and collector .....	30 00 <sup>a</sup>
13	Charles H. Geidel.....	Expenses as supt.....	58 55 <sup>a</sup>
14	G. W. Hilton.....	3 mos. rent. of Wave Mill Dam...	75 00
15	Wible-Enck Co. ....	Lumber for tool house at Dover..	141 37
16	Walter Shore .....	Services rendered .....	3 40
17	C. E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	294 16
	Pay roll No. 1.....	.....	297 30
	Pay roll No. 2.....	.....	196 62
	Total for month.....	.....	\$1,207 36 <sup>a</sup>
<i>November, 1906.</i>			
1	L. P. Wilson.....	Feeding team .....	\$20 00
2	A. L. Norman.....	Feeding team .....	20 00
3	W. H. Wilson.....	Expenses as collector .....	4 10
4	M. S. Harvey.....	Expenses as collector.....	7 15
5	C. H. Klein.....	1 scythe snath.....	60
6	L. P. Wilson.....	Traveling expenses .....	5 50
7	Geo. B. Deardorff & Son...	Paint, brushes, oil, nails, axes and handles .....	6 57
8	Samuel Stettler .....	2 pairs hip boots.....	9 00
9	C. E. Camp.....	Livery .....	15 50
10	Brucks & Adams.....	7 sq. asbestos roofing for tool house .....	21 00 <sup>a</sup>
11	Charles H. Geidel.....	Expenses as supt.....	56 75 <sup>a</sup>
12	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	294 16
	Pay roll No. 1.....	.....	191 35
	Pay roll No. 2.....	.....	97 50 <sup>a</sup>
	Total for month.....	.....	\$764 18 <sup>a</sup>

## ABSTRACT OF MONEY PAID.

By Harry R. Morris, Superintendent Sub-Divisions Nos. 3 and 4, Grand Division No. 2, Ohio and Erie Canal, for Material and Labor for the Maintenance and Repair of the Public Works.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>December, 1905.</i>			
1	S. M. Brown.....	Feeding state horse .....	\$10 00
2	Alex. Richardson .....	Feeding state horse and expenses.	12 40
3	W. H. Kirkendall.....	Feeding state horse and expenses.	16 25
4	C. W. Watkins.....	Feeding state team.....	42 00
5	W. H. Kirkendall.....	Expenses as collector.....	8 00
6	H. R. Morris.....	Expenses as supt.....	53 80
7	George Maybolt .....	Rubber boots .....	5 60
8	Henry O. Norris.....	Lumber .....	11 85
9	George Keiser .....	Blacksmithing .....	14 70
10	A. Bender .....	Blacksmithing .....	50
11	Climax Livery Barn .....	Livery .....	17 00
12	Charles E. Perkins.....	Traveling expenses as chief engr.	7 50
13	Samuel Bachtell .....	Traveling expenses as asst. engr.	5 00
14	F. W. Schaub.....	Messenger service.....	10 50
	Pay roll of officers.....	.....	251 66
	Pay roll No. 1.....	.....	150 00
	Pay roll No. 2.....	.....	398 36
	Pay roll No. 3.....	.....	137 37
	Total for month.....	.....	\$1,152 49
<i>January, 1906.</i>			
1	S. M. Brown.....	Feeding state horse.....	\$10 00
2	Alex. Richardson .....	Feeding state horse and expenses.	12 50
3	W. H. Kirkendall.....	Feeding state horse and expenses.	15 50
4	C. W. Watkins.....	Feeding state team and expenses.	22 00
5	W. H. Kirkendall.....	Expenses as collector.....	9 15
6	Harry R. Morris.....	Expenses as supt.....	66 75
7	Quinby Climer .....	Merchandise .....	1 22
8	George H. Frickardt.....	Merchandise .....	4 60
9	W. H. Albough.....	Livery .....	19 00
10	Clarence Shatteen .....	Labor as per contract.....	10 00
11	Charles E. Perkins.....	Traveling expenses as chief engr.	8 00
12	J. L. Brown.....	Livery .....	12 00
13	H. C. Burdett.....	Lumber .....	11 34
14	T. M. Lynn.....	Livery .....	3 00
15	J. S. Mosgrove.....	Bonding services .....	14 56
16	F. W. Schaub.....	Messenger service .....	6 70
	Pay roll of officers.....	.....	251 66
	Pay roll No. 1.....	.....	105 00
	Pay roll No. 2.....	.....	128 00
	Pay roll No. 3.....	.....	185 75
	Total for month.....	.....	\$896 73

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>February, 1906.</i>			
1	S. M. Brown.....	Feeding state horse and expenses.	\$12 65.
2	Alex. Richardson .....	Feeding state horse and expenses.	12 15.
3	W. H. Kirkendall.....	Feeding state horse and expenses.	13 50.
4	C. W. Watkins.....	Feeding state team and expenses.	22 00.
5	W. H. Kirkendall.....	Expenses as collector.....	6 25.
6	Harry R. Morris.....	Expenses as supt.....	49 69.
7	Drone & Son.....	Blacksmithing .....	1 50.
8	Geo. W. Bauder & others..	Services as commissioners.....	15 00.
9	The Tracy Shoe Co.....	Rubber boots .....	12 33.
10	Charles E. Perkins.....	Traveling expenses as chief engr.	8 00.
	Pay roll of officers.....	.....	251 66.
	Pay roll No. 1.....	.....	100 00.
	Pay roll No. 2.....	.....	75 50.
	Pay roll No. 3.....	.....	251 00.
	Total for month.....	.....	\$831 23.
<i>March, 1906.</i>			
1	S. M. Brown.....	Feeding state horse and expenses.	\$12 10.
2	Alex. Richardson .....	Feeding state horse and expenses.	12 10.
3	W. H. Kirkendall.....	Feeding state horse and expenses.	15 00.
4	C. W. Watkins.....	Feeding state team and expenses.	36 40.
5	W. H. Kirkendall.....	Expenses as collector.....	8 50.
6	H. R. Morris.....	Expenses as supt. ....	63 70.
7	James W. Kelly.....	Labor per contract.....	12 00.
8	J. A. Breinig.....	Hardware .....	8 65.
9	George Keiser .....	Blacksmithing .....	13 75.
10	The New Climax Livery..	Livery .....	8 00.
11	Mendenhall Bros. & Guth..	Hardware .....	3 65.
12	Charles E. Perkins.....	Traveling expenses as chief engr.	8 00.
13	Charles W. Diehl.....	Services as per bill.....	8 00.
14	W. H. Stoker.....	Livery .....	4 00.
	Pay roll of officers.....	.....	231 66.
	Pay roll No. 1.....	.....	113 00.
	Pay roll No. 2.....	.....	77 00.
	Pay roll No. 3.....	.....	247 50.
	Total for month.....	.....	\$883 01.
<i>April, 1906.</i>			
1	S. M. Brown.....	Feeding state horse and expenses.	\$13 25.
2	Alex. Richardson .....	Feeding state horse and expenses.	23 13.
3	W. H. Kirkendall.....	Feeding state horse and expenses.	15 98.
4	C. W. Watkins.....	Feeding state team and expenses.	34 10.
5	W. H. Kirkendall.....	Expenses as collector.....	9 00.
6	W. B. Watkins.....	R. R. fare.....	7 00.
7	H. R. Morris.....	Expenses as supt.....	63 75.
8	Showalter & Bowman.....	Nails .....	1 62.
9	Cune Crane Hardware Co..	Hardware .....	3 79.



ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
10	Jacob Eitel .....	Wheelbarrow .....	1 75
11	C. Beuford & Son.....	Hardware .....	39 94
12	Hibbs Hardware Co.....	Wheelbarrows .....	36 00
13	J. S. Oxley.....	Harness .....	9 35
14	Drone & Son.....	Blacksmithing .....	15 50
15	Matthew Taffe, Jr.....	Blacksmithing .....	10 28
16	John A. Williamson.....	Lumber and nails.....	8 60
17	Carry Brown .....	Timber .....	32 77
18	George Weidinger .....	Timber and lumber.....	129 75
19	George Stout .....	Sawing lumber .....	8 74
20	Lou Fisher .....	Steamer for inspecting tour.....	10 00
21	W. W. Metzger.....	Team work as per contract.....	7 50
22	Albert Burk .....	Team work as per contract.....	4 50
23	J. H. Oty.....	Team work as per contract.....	2 00
24	Clarence Shasteen .....	Labor as per contract.....	4 50
25	W. H. Stoker, Agt.....	Livery .....	8 00
26	T. M. Lynn.....	Livery .....	6 00
27	Charles E. Perkins.....	Traveling expenses as chief engr.	8 00
	Pay roll of officers.....	.....	231 66
	Pay roll No. 1.....	.....	73 50
	Pay roll No. 2.....	.....	266 38
	Pay roll No. 3.....	.....	760 00
	Pay roll No. 4.....	.....	385 50
	Pay roll No. 5.....	.....	353 24
	Pay roll No. 6.....	.....	51 00
	Total for month.....	.....	\$2,636 08
May, 1906.			
1	S. M. Brown.....	Feeding state horse and expenses.	\$10 68
2	Alex. Richardson .....	Feeding state horse and expenses.	31 00
3	W. H. Kirkendall.....	Feeding state horse and expenses.	30 11
4	C. W. Watkins.....	Feeding team and expenses.....	34 65
5	J. J. Steinhauer.....	Making fill and rip-rapping .....	250 00
6	W. M. Metzger.....	Team work .....	7 00
7	Sommer Bros. ....	Bale oakum and freight.....	4 50
8	W. H. Kirkendall.....	Expenses as collector.....	4 75
9	H. R. Morris.....	Expenses as supt.....	67 65
10	J. S. Ritt.....	Rubber boots .....	5 50
11	George Keiser .....	Blacksmithing .....	18 85
12	Philip Lorbach, Jr.....	Harness repairs, etc.....	2 90
13	J. C. Hewitt.....	Lumber .....	79 54
14	Philip Hernstein .....	Lumber .....	59 62
15	Carry Brown .....	Saw logs .....	163 38
16	Ella Layton .....	Saw logs .....	9 06
17	Reed & Marshall.....	Lumber .....	33 75
18	C. A. Hertenstein.....	Lumber .....	173 50
19	J. A. Breinig.....	Hardware .....	10 87
20	C. Beuford & Son.....	Hardware .....	14 39
21	C. W. Smith.....	Hardware .....	5 75
22	Louis F. Stahler.....	Spring seat .....	2 50

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
23	William S. West & Son....	Well pump .....	10 00
24	W. H. Albaugh.....	Livery .....	35 00
25	W. H. Stoker, Agt.....	Livery .....	16 50
26	Charles E. Perkins.....	Traveling expenses as chief engr.	10 00
27	George Stout .....	Services performed .....	57 89
	Pay roll of officers.....	.....	256 66
	Pay roll No. 1.....	.....	252 25
	Pay roll No. 2.....	.....	1,214 25
	Pay roll No. 3.....	.....	382 12
	Pay roll No. 4.....	.....	678 37
	Pay roll No. 5.....	.....	114 24
	Total for month.....	.....	\$4,047 23
<i>June, 1906.</i>			
1	S. M. Brown.....	Feeding state horse and expenses.	\$10 55
2	Alex. Richardson .....	Feeding state horse and expenses.	12 30
3	W. H. Kirkendall.....	Feeding state horse and expenses.	27 22
4	C. W. Watkins.....	Feeding team and expenses.....	33 25
5	W. H. Kirkendall.....	Expenses as collector.....	4 00
6	H. R. Morris.....	Expenses as supt.....	60 30
7	T. M. Lynn.....	Livery .....	3 50
8	W. H. Albaugh & Co.....	Livery .....	34 00
9	The Climax Livery.....	Livery .....	30 00
10	C. Beuford & Son.....	Hardware .....	22 56
11	Showalter & Bowman.....	Hardware .....	2 85
12	Jacob Brunner .....	Washers for Deer Creek Aqueduct.	16 25
13	J. A. McLaughlin & Bros.	Rubber tire for buggy.....	20 00
14	Charles Schwarz .....	Blacksmithing .....	7 50
15	J. Wolf & Son.....	Blacksmithing .....	6 10
16	George Stout .....	Sawing lumber .....	35 32
17	Jacob Leist .....	Saw logs .....	60 50
18	Frank Hoffman .....	Lumber .....	60 50
19	Patterson & Rader .....	Lumber .....	46 48
20	J. C. Hewitt.....	Lumber .....	6 80
21	Reed & Marshall.....	Lumber .....	2 12
22	The Courier Co.....	Printing notices .....	3 20
23	The Union Coal Co.....	Lime .....	108 75
24	Pickaway Cement Co.....	Cement .....	10 00
25	J. F. Perry.....	Cement .....	2 77
26	Chillicothe Coal Co.....	Brick .....	4 50
27	A. J. Valgamore.....	Using scrapers as per contract....	2 00
28	Charles E. Perkins.....	Traveling expenses as chief engr.	10 00
	Pay roll of officers.....	.....	256 66
	Pay roll No. 1.....	.....	551 75
	Pay roll No. 2.....	.....	132 37
	Pay roll No. 3.....	.....	1,414 62
	Pay roll No. 4.....	.....	59 37
	Pay roll No. 5.....	.....	651 75
	Total for month.....	.....	\$3,799 72

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>July 1906.</i>			
1	S. M. Brown.....	Feeding horse and expenses.....	\$12 70
2	Alex. Richardson .....	Feeding horse and expenses.....	14 45
3	W. H. Kirkendall.....	Feeding 2 horses and expenses..	32 05
4	C. W. Watkins.....	Feeding team and expenses.....	33 50
5	W. H. Kirkendall.....	Expenses as collector.....	5 00
6	H. R. Morris.....	Expenses as supt.....	62 45
7	W. H. Stoker, Agt.....	Livery .....	14 00
8	W. H. Albaugh & Co.....	Livery .....	6 00
9	Reed & Marshall.....	Lumber .....	49 62
10	Phillip Herrnstein .....	Lumber .....	55 59
11	Showalter & Bowman.....	Blacksmithing and hardware....	1 80
12	C. Beuford & Son.....	Hardware .....	7 70
13	A. Bender .....	Blacksmithing .....	3 25
14	J. W. Drone & Son.....	Blacksmithing .....	3 25
15	Pickaway Cement Block Co	Cement .....	52 00
16	J. E. Mick.....	Lime in Canal at Chillicothe.....	9 36
17	Charles W. Diehl.....	Traveling expenses, etc.....	35 00
18	Chas. E. Perkins.....	Traveling expenses as chief engr.	10 00
	Pay roll of officers.....	.....	256 66
	Pay roll No. 1.....	.....	456 50
	Pay roll No. 2.....	.....	1,119 62
	Pay roll No. 3.....	.....	313 25
	Total for month.....	.....	\$2,533 75
<i>August, 1906.</i>			
1	S. M. Brown.....	Feeding horse and expenses.....	\$13 50
2	Alex. Richardson .....	Feeding horse and expenses.....	14 00
3	W. H. Kirkendall.....	Feeding horse and expenses.....	19 95
4	C. W. Watkins.....	Feeding team and expenses.....	38 60
5	W. H. Kirkendall.....	Expenses as collector.....	5 00
6	Harry R. Morris.....	Expenses as supt.....	59 48
7	Charles W. Rutherford....	Cement .....	10 50
8	Carry Brown .....	Sawing lumber and scraper hire..	7 00
9	Crane-Bliss Hardware Co..	Hardware .....	1 10
10	Chillicothe Hardware Co...	Hardware .....	12 45
11	Chillicothe Hardware Co..	Hardware .....	6 49
12	C. W. Smith.....	Hardware .....	4 35
13	J. A. Breinig.....	Hardware .....	10 80
14	O. E. Houser.....	Blacksmith and machine work....	4 22
15	Mendenhall Bros. & Guth..	Hardware .....	1 10
16	George Keiser .....	Blacksmithing .....	11 00
17	Sterling Planing Mill & Lumber Co. ....	Lumber .....	11 80
18	Henry O. Norris .....	Lumber .....	5 93
19	Sterling Planing Mill & Lumber Co. ....	Lumber .....	49 13
20	Reed & Marshall.....	Lumber .....	68 14
21	Patterson & Rader.....	Lumber .....	26 00
22	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
23	Samuel Bachtell .....	Traveling expenses as asst. engr.	70



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
24	The Ruggles-Gale Co.....	Ledger for collector.....	5 00
	Pay roll of officers.....	.....	256 66
	Pay roll No. 1.....	.....	249 50
	Pay roll No. 2.....	.....	970 50
	Pay roll No. 3.....	.....	306 50
	Total for month.....	.....	\$2,184 40
<i>September, 1906.</i>			
1	S. M. Brown.....	Feeding horse .....	\$10 00
2	Alex. Richardson .....	Feeding horse and expenses.....	13 65
3	W. H. Kirkendall.....	Feeding horse and expenses.....	14 50
4	C. W. Watkins.....	Feeding team and expenses.....	26 45
5	W. H. Kirkendall.....	Expenses as collector.....	7 35
6	H. R. Morris.....	Expenses as supt. ....	49 75
7	R. W. Hohenbaugh.....	Shovels .....	1 30
8	Charles Schwartz .....	Blacksmithing .....	5 40
9	Oliver Dorsey .....	Lumber .....	10 00
10	C. Beuford & Son.....	Hardware .....	15 08
11	Charles Miller .....	Blacksmithing .....	1 25
12	C. W. Keuchole.....	Veterinary services .....	1 50
13	Climax Livery .....	Livery .....	20 00
14	W. H. Stoker.....	Livery .....	19 90
15	Gehres Bros. ....	Lumber .....	14 85
16	Charles E. Perkins.....	Expenses as chief engr.....	15 00
	Pay roll of officers.....	.....	256 66
	Pay roll No. 1.....	.....	219 00
	Pay roll No. 2.....	.....	181 37
	Pay roll No. 3.....	.....	189 50
	Total for month.....	.....	\$1,072 51
<i>October, 1906.</i>			
1	S. M. Brown.....	Feeding state horse one mo.....	\$10 00
2	Alex. Richardson .....	Feeding state horse and other ex- penses .....	14 10
3	W. H. Kirkendall.....	Feeding state horse and other ex- penses .....	19 25
4	C. W. Watkins.....	Feeding state team and other ex penses .....	30 30
5	W. H. Kirkendall.....	Expenses as collector.....	21 00
6	H. R. Morris.....	Expenses as supt.....	63 35
7	Pense & Swisher.....	Shingles, etc. ....	27 40
8	Schleyer & Barrere.....	Nails .....	2 25
9	W. H. Albaugh & Co.....	Livery .....	16 00
10	Jacob Eitel .....	Hardware .....	1 30
11	Samuel Bachtell .....	Traveling expenses as asst. engr.	1 50
12	C. E. Perkins .....	Traveling expenses as chief engr.	15 00
	Officers pay roll.....	.....	256 66

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
	Pay roll No. 1.....	.....	107 00
	Pay roll No. 2.....	.....	239 50
	Pay roll No. 3.....	.....	160 50
	Total for month.....	.....	\$985 11
	<i>November, 1906.</i>		
1	S. M. Brown.....	Feeding state horse and expenses.	\$13 40
2	Alex. Richardson .....	Feeding state horse and expenses.	33 85
3	W. H. Kirkendall.....	Feeding state horse and expenses.	14 00
4	C. W. Watkins.....	Feeding state team and expenses.	36 15
5	H. R. Morris.....	Expenses as supt. of repairs.....	61 45
6	W. H. Kirkendall.....	Expenses as collector.....	8 05
7	W. H. Kirkendall.....	Lumber as per bill.....	33 60
8	Frank Hoffman .....	Lumber as per bill.....	23 37
9	Schlyer & Barrere.....	Spikes .....	2 25
10	F. M. DeWeese.....	Rental and repairs on jacks.....	19 58
11	John Emmitt .....	1 Brown wagon.....	40 00
12	George Keiser .....	Blacksmithing .....	8 90
13	C. A. Hertenstein & Co....	Lumber .....	167 82
14	W. H. Stoker, Agt.....	Livery .....	10 00
15	J. W. Drone & Son.....	Blacksmithing .....	2 50
16	A. Bender .....	Blacksmithing .....	1 10
17	Samuel Bachtell .....	Traveling expenses as asst. engr.	1 50
18	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Officers pay roll.....	.....	256 66
	Pay roll No. 1.....	.....	100 00
	Pay roll No. 2.....	.....	316 75
	Pay roll No. 3.....	.....	148 25
	Total for month.....	.....	\$1,314 18

## ABSTRACT OF MONEY PAID.

By Harry R. Morris, Superintendent Sub-Division No. 4, Grand Division No. 2,  
Ohio and Erie Canal, for Material and Labor for Repairing Stony Fork  
Aqueduct.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>January, 1906.</i>	
1	H. C. Burdett.....	Lumber .....	\$21 29
	Total for month.....	.....	\$21 29

## ABSTRACT OF MONEY PAID.

By Harry R. Morris, Superintendent Sub-Division No. 3, Grand Division No. 2,  
Ohio and Erie Canal, for Material and Labor, Repairing Banks at Buckeye  
Lake.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>January, 1906.</i>	
1	Thomas Randell .....	Piling .....	\$10 00
	Pay roll No. 1.....	.....	\$37 75
	Total for month.....	.....	
		<i>February, 1906.</i>	
1	Henry O. Norris.....	Cement .....	\$4 68
	Pay roll No. 1.....	.....	56 25
	Total for month.....	.....	\$60 93
		<i>April, 1906.</i>	
	Pay roll No. 1.....	.....	\$51 75
	Total for month.....	.....	\$51 75



ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		May, 1906.	
1	A. Bender .....	Blacksmithing .....	\$3 50
2	Spitler Bros. ....	Hardware .....	3 81
3	Showalter & Bowman.....	Hardware .....	8 60
4	Charles V. Walker.....	Hardware .....	34
5	T. H. Randall.....	Piling .....	7 00
6	Buckeye Planing Mill.....	Lumber .....	1 97
7	Pence & Swisher.....	Lumber .....	85
8	Henry Geiger .....	Lumber .....	96 35
9	Del Fisher Boat Line Co..	Towing flat and lumber.....	5 00
10	Charles Korzenborn Brg. Co. ....	Buoyes .....	12 50
11	H. Mithoff & Co.....	Hardware .....	12 45
12	Oliver Dorsey .....	Lumber .....	9 89
	Pay roll .....	.....	193 00
	Total for month.....	.....	\$355 26
		August, 1906.	
1	W. H. Booker.....	Surveying on Buckeye Lake.....	\$58 70
2	Henry O. Norris.....	Lumber .....	8 60
3	Crane-Bliss Hardware Co..	Hardware .....	14 46
	Pay roll No. 1.....	.....	157 50
	Total for month.....	.....	\$239 26
		October, 1906.	
1	Henry Geiger .....	Lumber .....	\$33 53
2	Henry O. Norris.....	Cement .....	67 56
	Pay roll .....	.....	317 65
	Total for month.....	.....	\$418 74
		November, 1906.	
1	Henry O. Norris.....	Cement and lumber.....	\$139 20
2	B. L. Hawke.....	Crushed lime stone.....	100 39
3	John A. Spurgeon.....	Freight on lumber and tools to Buckeye Lake .....	1 05
4	Crane-Bliss Hardware Co..	Hardware .....	22 57
5	Pence & Swisher.....	Lumber .....	26 46
6	George Maybolt .....	1 pr. rubber boots.....	4 50
7	Benadum & Peters.....	Hardware .....	4 80
8	B. L. Hawke.....	Broken stone furnished.....	27 26
	Pay roll No. 1.....	.....	402 72
	Pay Roll No. 2.....	.....	193 67
	Total for month.....	.....	\$922 62

## ABSTRACT OF MONEY PAID.

Improvement Northern Division Ohio Canal, between Cleveland and Dresden,  
as provided by an Act of the Seventy-Seventh General Assembly of Ohio,  
by J. A. Hanlon, Engineer.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
<i>May, 1906.</i>			
1	Clifton Bros., Dresden, O.	Estimate No. 3, Outlet lock.....	\$4,164 90
2	Economy Drawing Table Co., Toledo, Ohio .....	Drawing table for Akron office..	33 48
3	J. C. Mercer & Co., Cleve- land, Ohio .....	Level and rod for Akron office...	112 00
4	M. O'Neill & Co., Akron, O.	Supplies for Akron office.....	38 28
5	Burdette L. Dodge, Akron, Ohio .....	Supplies for Akron office.....	31 38
6	B. W. Ricketts, Coshocton, Ohio .....	Hardware for survey party, Wal- honding survey .....	80
7	Gray Hardware Co., Cos- hocton, Ohio .....	Hardware for survey party, Wal- honding survey .....	1 75
8	L. W. Pocock, Coshocton, Ohio .....	Livery for survey party, Wal- honding feeder .....	28 25
9	Gunther Planing Mill Co., Coshocton, Ohio .....	Boat and stakes for Walhond- ing survey .....	12 38
10	Clay Miller, Roscoe, Ohio.	Team work, Walhonding survey.	3 00
11	J. A. Hanlon, Coshocton, O.	Expense account, N. Div.....	62 30
12	G. W. Crise, Buckeye City, Ohio .....	Expense account, Walhonding survey .....	28 55
13	J. A. Hanlon and others...	Pay roll, May.....	626 50
	Total for month.....	.....	\$5,143 57
<i>June, 1906.</i>			
1	Clifton Bros., Dresden, O..	Estimate No. 4, Outlet lock.....	\$3,275 10
2	M. O'Neill & Co., Akron, O.	Supplies for Engineer's office, Akron .....	32 15
3	Summit Lumber Co., Ak- ron, Ohio .....	Material for carpenter's, Engi- neer's office .....	51 10
4	Harter & Milar, Akron, Ohio .....	Hardware for Engineer's party..	1 83
5	Akron Tent & Awning Co., Akron, Ohio .....	Supplies for boat.....	1 56
6	J. G. Knapp, Akron, Ohio.	Blue print bath pan, Engineer's office .....	1 75
7	J. A. Hanlon.....	Expense account, June.....	67 82
8	Pay roll, J. A. Hanlon and others .....	Engineers and inspectors.....	784 00

ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
9	J. M. Crawford and others	Expense account .....	9 00
10	P. T. McCourt.....	Livery for engineer's party.....	9 50
	Total for month.....	.....	\$4,233 81
		July, 1906.	
1	Clifton Bros., Zanesville, O.	Estimate No. 5, Dresden locks contract .....	\$1,649 66
2	Clifton Bros., Zanesville, O.	Extra bills, labor and material, Dresden locks contract.....	287 39
4	Geo. B. King, Dresden, O..	Gravel for Dresden locks.....	4 60
5	C. S. Frazier, Dresden, O.	Supplies for Dresden locks.....	65
6	John Miller, Roscoe, O...	Freight paid on cement.....	3 15
7	A. H. Thomson & Son, Coshocton, Ohio .....	Cement for Dresden locks.....	137 30
8	Coshocton Lumber Co., Coshocton, Ohio .....	Lumber for concrete forms, Dresden locks .....	6 55
9	Pemchat—Hunsicker Co., Akron, Ohio .....	Supplies for engineer's office, Akron .....	3 25
10	The M. O'Neill Co., Akron, Ohio .....	Supplies for engineer's office, Akron .....	7 58
11	The Cleveland Blue Print Co. ....	Supplies for engineer's office.....	1 50
12	Commercial Tribune Co., Cincinnati, Ohio .....	Advertising for proposals, lock work and cement.....	7 97
13	American Contractor, Chicago, Ill. ....	Advertising for proposals, lock work and cement.....	27 54
14	Scioto Gazette Co., Chillicothe, Ohio .....	Advertising for proposals, lock work and cement.....	13 13
15	Akron Times-Democrat, Akron, Ohio .....	Advertising for proposals, lock work and cement.....	10 40
16	Coshocton Daily Times....	Advertising for proposals, lock work and cement.....	8 75
17	Plain Dealer Pub. Co., Cleveland, Ohio .....	Advertising for proposals.....	10 40
18	Engineering News, New York .....	Advertising for proposals, lock work and cement.....	36 90
19	The Signal Co., Zanesville, Ohio .....	Advertising for proposals, lock work and cement.....	10 30
20	The Toledo Blade Co., Toledo, Ohio .....	Advertising for proposals, lock work and cement.....	7 98



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
21	The Westbote & Express, Columbus, Ohio .....	Advertising for proposals, lock work and cement.....	7 57
22	The Age Publishing Co., Coshocton, Ohio .....	Advertising for proposals, lock work and cement.....	8 74
23	The Age Publishing Co., Coshocton, Ohio .....	Printing specifications Ohio Ca- nal work .....	31 65
24	P. T. McCourt, Akron, O..	Livery for engineer's party.....	14 50
25	W. L. Bender, Akron, Ohio	Expense account, surveys.....	19 65
26	J. A. Hanlon, Coshocton, O	Expense account—board, tramp, supplies .....	60 94
27	Pay roll No. 1, John Han- lon and others.....	Engineer's Akron .....	874 00
28	Pay roll No. 2, A. Showman man and others.....	Repair Dresden Locks.....	216 25
29	Pay roll No. 3, J. A. Gehres and others .....	Survey for New Reservoir.....	260 00
30	Jackson Bros., Akron, O...	Livery for J. A. Gehres.....	33 25
31	B. E. Albertson, State Mill	Boarding J. A. Gehres' party....	32 50
32	The Hankey Lumber Co., Akron, Ohio .....	Stakes for J. A. Gehres' party....	15 25
33	Kraus-Kirn Co., Akron, O.	Labor and material, Engineer's office, Akron .....	13 59
	Total for month.....		\$3,822 89
<i>August 1906.</i>			
1	J. A. Hanlon and others...	Pay roll No. 1.....	\$752 50
2	A. Showman and others....	Pay roll No. 2.....	129 25
3	J. A. Gehres and others...	Pay roll No. 3, survey new reser- voir .....	335 00
4	Wash Carpenter and others	Pay roll No. 4, State repair gang .....	480 09
5	J. A. Hanlon.....	Personal expenses .....	60 93
6	W. L. Bender.....	Personal expenses .....	33 60
7	P. T. McCourt.....	Estimate No. 1, locks Nos. 1 and 2, Sect. I.....	271 62
8	McGary & McGowan.....	Estimate No. 1, locks Nos. 20 and 21, Sect. IV.....	259 74
9	P. T. McCourt.....	Livery and teaming.....	52 70
10	Peterson & Wright.....	Cement for imp. work at Akron..	288 53
11	American Sewer Pipe Co..	Pipe for Mud Run Culvert.....	181 50
12	U. G. Frederick.....	Lumber imp. work culverts in Akron .....	116 66
13	Summit Lumber & Bldg. Co. ....	Material for Supt. Hatch.....	30 73
14	Hankey Lumber Co.....	Material for Supt. Hatch.....	8 09
15	T. D. Paul.....	Stockpole transit for engr. office..	110 00
16	J. C. Ulmer.....	2 level rods for engr. office.....	24 00

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
17	Underwood Typewriter Co.	Typewriter for engr. office.....	92 25
18	B. L. Dodge.....	Typewriter desk for engr. office.....	18 00
19	Central Union Tel. Co....	Extra service Aug. 15-Sept. 30..	6 75
20	Commercial Prtg. Co.....	Stationery for engr. office.....	5 75
21	Anna B. McAllister.....	Stenographic work .....	2 40
22	Harter & Milar.....	Hardware for imp. work.....	15 38
23	M. O'Neil & Co.....	Supplies for engr. office.....	24 31
24	Ben Albertson .....	Boarding Gehres' survey party...	32 50
25	Jackson Bros. ....	Livery for Gehres' survey party..	42 00
26	The Beacon Journal.....	Advertising for proposals for lock and cement work.....	10 40
27	Leader Prtg. Co. ....	Advertising for proposals for lock and cement work.....	16 78
28	The Independent Co.....	Advertising for proposals for lock and cement work.....	11 25
29	The News Pub. Co.....	Advertising for proposals for lock and cement work.....	6 90
30	The Citizen Pub. Co.....	Advertising for proposals for lock and cement work.....	7 58
	Total for month.....	.....	\$3,427 19
<i>September, 1906.</i>			
1	P. T. McCourt.....	Sept. estimate, Sec. 1.....	\$1,828 62
2	S. W. Parshall.....	Sept. estimate, Sec. 3.....	2,118 41
3	McGarry & McGowan.....	Sept. estimate, Sec. 6.....	2,006 28
4	J. N. Kissner.....	Sept. estimate Lock 16, Trenton.	643 50
5	McGarry & McGowan.....	Extra work, locks 20 and 21.....	125 00
6	Pay roll No. 1.....	J. A. Hanlon and others.....	1,105 00
7	Pay roll No. 2.....	J. A. Gehres and others.....	310 00
8	Pay roll No. 3.....	W. Carpenter and others.....	618 22
9	Atlas Portland Cement Co.	Sept. estimate, cement contract..	4,180 95
10	Peterson & Wright.....	Cement furnished at Akron.....	489 82
11	U. G. Frederick Lumber Co.	Lumber for sheds, etc.....	195 48
12	American Sewer Pipe Co..	Sewer pipe Mud Run culvert....	132 00
13	Summit Lumber Co.....	Lock culvert frames.....	87 81
14	Crowell & Peck.....	Cement testing .....	15 50
15	American Contr. Co.....	Advertising Walhonding Dam....	9 18
16	German-Amer. Pub. Co....	Advertising Walhonding Dam....	4 00
17	J. J. Bast.....	Livery for field party.....	16 50
18	Hardware Supply Co.....	Supplies for spillway bridge....	4 50
19	Am. Scrap Iron Co.....	Rail for spillway bridge and locks.	37 25
20	W. H. Smith.....	Stakes .....	3 00
21	Myers Bros. ....	Hardware .....	60
22	Taplin, Rice & Co.....	Castings and machine work.....	49 51
23	J. C. Miner & Co.....	Repairs insts.....	2 38
24	Massillon Lumber Co.....	Stakes .....	11 60
25	S. A. Conrad & Co.....	Hardware .....	2 50
26	Nichter Bros. ....	Livery .....	4 00
27	Central Union Tel. Co....	Telephone service and tolls.....	14 95
28	Ohio State Journal.....	Advertising Walhonding Dam....	4 31



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
29	Plain Dealer Pub. Co.....	Advertising Walhonding Dam....	4 78
30	Commercial Tribune Co...	Advertising Walhonding Dam....	4 32
31	B. E. Albertson.....	Boarding Gehres' party.....	35 00
32	A. Adamson .....	Iron and machine work.....	7 25
33	Harter & Milar.....	Hardware .....	45 63
34	Forman, Bassett & Hatch..	File case .....	5 50
35	Leader Printing Co.....	Advertising Walhonding Dam....	4 46
36	Toledo Blade Co.....	Advertising Walhonding Dam....	4 73
37	M. O'Neill & Co.....	Supplies for engrs. office.....	19 15
38	Kraus & Kirn.....	Plumbing and supplies .....	47 00
39	P. T. McCourt.....	Livery .....	28 50
40	J. A. Hanlon.....	Expense account, Sept.....	84 70
41	W. J. Bender and others...	Expense account, Sept.....	42 15
42	Jackson Bros. ....	Livery for Gehres' party.....	33 25
43	Cantwell Shoe Co.....	Rubber boots for 6 mile dam in- specter .....	9 00
44	Samuel Parmer .....	Boating gravel for Mud Run culvert .....	25 00
	Total for month.....		\$14,421 29
<i>October, 1906.</i>			
1	P. T. McCourt.....	Estimate No. 3, Akron locks....	\$1,397 07
2	P. T. McCourt.....	Livery bill, engineers.. ..	18 50
3	P. T. McCourt.....	Allowance part extra bill, Sept. and Oct. ....	100 00
4	S. W. Parshall.....	Estimate No. 2, Akron locks....	1,384 07
5	S. W. Parshall.....	Allowance part extra bill, Sept. and Oct. ....	300 00
6	McGarry & McGowan.....	Estimate No. 3, Akron locks....	2,470 68
7	McGarry & McGowan.....	Allowance extra bill, locks 20-21.	139 35
8	Jas. J. McGowan.....	Estimate No. 1, Mud Run culvert.	539 00
9	J. N. Kissner.....	Estimate No. 2, Lock 16, Trenton.	2,466 00
10	Clifton Bros. ....	Estimate No. 6 and final, Dres- den locks .....	255 03
11	Atlas Portland Cement Co.	Estimate No. 2 for cement de- livered .....	4,600 70
12	American Sewer Pipe Co..	Pipe for Mud Run culvert.....	33 00
13	U. G. Frederick Lumber Co.	Pipe for temporary bridge, lock 1.	24 00
14	Osborn Engineering Co....	Testing cement .....	87 00
15	The Young Co.....	Gravel for Mud Run culvert.....	57 00
16	Wm. Snider .....	Lumber delivered at Dresden....	112 50
17	M. O'Neill Co. ....	Supplies for engrs. office.....	14 43
18	C. A. McNary.....	Supplies for sounding rods 6 mile dam .....	20 18
19	Peterson & Wright.....	Cement for Mud Run culvert....	54 45
20	Bowers-Conkle Lumber Co.	Lumber for dams at Mud Run culvert .....	207 98
21	Harry J. Lewis.....	Services consulting engrs., 6 mile and Miami dams.....	182 00



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
22	Samuel Shaffer .....	Blacksmithing for sounding rods, 6 mile dam.....	3 00
23	Akron Plumbing & Heating Co. ....	Repairs and pipe and hydrant, lock 1 .....	1 10
24	Seegrist & Knapp.....	Labor and material sounding rods.	6 96
25	Hankey Lumber Co.....	Stakes .....	2 00
26	Crowell & Peck.....	Sand test .....	1 50
27	Jackson Bros. ....	Livery for J. A. Gehres' party....	31 50
28	L. W. Pocock.....	Livery for work at 6 mile dam, 9 mos. ....	46 50
29	B. E. Albertson.....	Board for J. A. Gehres' party....	26 00
30	Age Publishing Co.....	Publishing "Notice to Contract- ors," 6 mile dam.....	6 90
31	J. A. Hanlon.....	Expense account, October.....	139 17
32	W. L. Bender.....	Expense account, October.....	13 20
33	Pay roll No. 1.....	J. A. Hanlon and others, Oct. engrs. ....	973 50
34	Pay roll No. 2.....	A. Showman and others, 6 mile dam .....	79 25
35	Pay roll No. 3.....	J. A. Gehres' party, reservoir sur- vey, October .....	297 50
36	Pay roll No. 4.....	W. Carpenter and others, im- provement work under Stupt..	95 37
37	Toledo Press Co.....	Publishing "Notice to Contract- tors," 6 mile dam.....	5 40
38	Columbus Press .....	Publishing "Notice to Contract- tors," 6 mile dam.....	4 72
39	Beacon Journal Co.....	Publishing "Notice to Contract- tors," 6 mile dam.....	7 90
40	Enquirer Co. ....	Publishing "Notice to Contract- tors," 6 mile dam.....	3 93
41	Engineering News Co.....	Publishing "Notice to Contract- tors," 6 mile dam.....	19 20
42	Commercial Printing Co...	Printing and binding specifica- tions, 6 mile dam.....	19 00
43	Williams Foundry Co.....	Date letters for Akron locks....	2 00
44	Akron Democrat Co.....	Publishing "Notice to Contract- tors," Wallhonding dam.....	7 90
45	W. G. Johnston.....	Services negotiating lands for reservoir — on acct. ....	100 00
46	Harter & Milar.....	Hardware-improvement work com.	6 15
47	Hankey Lumber Co.....	Lumber for Mud Run culvert....	243 71
48	A. H. Sawyer.....	One month's services.....	125 00
	Total for month.....	.....	\$16,731 30
<i>November, 1906.</i>			
1	P. T. McCourt.....	Estimate No. 4, Akron Locks....	\$2,609 84
2	P. T. McCourt.....	Livery engineer's office, Akron...	18 00
3	S. W. Parshall.....	Estimate No. 3, Akron Locks..	994 37

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
4	S. W. Parshall.....	Allowance on account extra work.	200 00
5	McGarry & McGowan.....	Estimate No. 4, Akron Locks....	790 65
6	J. J. McGowan.....	Estimate No. 2, Mud Run culvert.	516 70
7	J. N. Kissner.....	Estimate No. 3, Lock 16, Tren- ton, O. ....	1,795 50
8	Atlas Portland Cement Co.	Estimate No. 3 cement deliveries..	2,785 05
9	U. G. Frederick Lum. Co.	Lumber for bridge at lock 1.....	46 43
10	Alantic Foundry Co.....	Castings for lock gates.....	26 88
11	Peterson & Wright.....	Cement furnished contractors at Akron locks .....	117 60
12	Peterson & Wright.....	Cement furnished Mud Run cul- vert .....	54 50
13	E. C. Hovey.....	Gravel and limestone for Mud Run culvert .....	48 00
14	Hankey Lumber Co.....	Lumber for stakes for Gehres' reservoir survey .....	4 00
15	American Sewer Pipe Co..	Sewer pipe and freight for Mud Run culvert .....	240 54
16	Samuel Palmer .....	Hauling gravel Mud Run culvert.	8 00
17	Williams Foundry Co.....	Date letters for Akron locks....	2 40
18	Ben Albertson .....	Board bill, Gehres' survey and B. P. W. ....	23 25
19	H. Myers .....	Repairs of tools state gang work, lock 1 .....	5 00
20	Jackson Bros. ....	Livery for Gehres' survey of res- ervoir locks .....	10 50
21	Hardware Supply Co.....	Bolts for lock work.....	1 08
22	Williams Foundry Co.....	Cost date letters for locks.....	4 00
23	W. A. Karns.....	Publishing "Notiee to Contract- ors," Walhonding dam.....	6 50
24	American Contr. Pub. Co..	Publishing "Notice to Contract- ors," Walhonding dam.....	9 72
25	John Englander .....	Foundation timber for lock 10....	140 00
26	Kraus-Kern Co. ....	Labor and material on gas pipe line, office lock 1.....	30 09
27	M. O'Neill Co.....	Supplies for engineer's office.....	11 58
28	W. G. Johnston.....	Allowance agent negotiating pur- chase Res. land.....	100 00
29	J. A. Hanlon.....	Expense account, November.....	85 27
30	Pay roll No. 1.....	J. A. Hanlon and others.....	971 00
31	Pay roll No. 2.....	J. A. Gehres and others.....	232 50
32	Pay roll No. 3.....	John Wilson and others.....	180 50
33	Pay roll No. 4.....	George Wallace and others.....	21 00
	Total for month.....	.....	\$12,090 45

## ABSTRACT OF MONEY PAID.

By Charles Cooper, Superintendent Sub-Division No. 1, Grand Division No. 3,  
Miami and Erie Canal, for Material and Labor for the Maintenance and  
Repair of the Public Works.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>December, 1905.</i>			
1	W. A. Gregg.....	Expense account .....	\$2 00
2	J. W. Sullivan.....	Expense account .....	2 00
3	E. C. Booth.....	Expense account .....	2 30
4	Charles Cooper .....	Expense account.....	59 15
5	J. W. Sullivan.....	Rent for collector at Lockland....	8 34
6	James Aylward .....	Rent for locktender at Lockland..	8 00
7	J. W. Gorman.....	Rent for locktender at Crescent- ville .....	6 00
8	Fred Blursch .....	Feeding state boat team No. 1, etc.	23 50
9	Henry F. Eyler.....	Feeding state boat team No. 2, etc.	21 50
10	Cincinnati Bell Tel. Co....	Telephone for canal office, Cincin- nati .....	21 25
11	Charles E. Perkins.....	Travelling expenses as chief engr.	8 00
12	F. W. Schaub.....	Messenger services .....	10 50
13	Bertha A. Young.....	Typewriting services .....	15 75
	Pay roll of officers.....	.....	554 17
	Pay roll No. 1.....	.....	207 50
	Pay roll No. 2.....	.....	158 48
	Pay roll No. 3.....	.....	50 00
	Total for month.....	.....	\$1,158 44
<i>January, 1906.</i>			
1	W. A. Gregg.....	Expense account .....	\$1 55
2	J. W. Sullivan.....	Expense account .....	1 40
3	E. C. Booth.....	Expense account .....	1 47
4	Charles Cooper .....	Expense account .....	65 95
5	J. W. Sullivan.....	Rent for canal collector at Lock- land .....	8 34
6	James Aylward .....	Rent for locktender at Lockland...	8 00
7	J. W. Gorman.....	Rent for locktender at Crescent- ville .....	6 00
8	Fred Blursch .....	Feeding state boat team No. 1, etc.	23 00
9	Henry F. Eyler.....	Feeding state boat team No. 2, etc.	26 25
10	Kohmescher & Co.....	Rubber boots, coat and hat.....	11 25
11	Cincinnati Traction Co....	Labor and material.....	9 92
12	Samuel Bachtell .....	Travelling expenses as asst. engr..	8 50
13	Charles E. Perkins .....	Travelling expenses as chief engr.	8 30
14	J. S. Mosgrove, Agt.....	Bonding services .....	21 60
15	W. H. McClintock.....	Travelling expenses as secretary..	10 00
16	F. W. Schaub.....	Messenger service .....	6 66
	Pay roll of officers.....	.....	509 17
	Pay roll No. 1.....	.....	167 25
	Pay roll No. 2.....	.....	97 25
	Pay roll No. 3.....	.....	75 00



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
	Pay roll No. 4.....	.....	50 00
	Total for month.....	.....	\$1,116 86
<i>February, 1906.</i>			
1	W. A. Gregg.....	Expense account .....	\$1 82
2	J. W. Sullivan.....	Expense account .....	1 20
3	E. C. Booth.....	Expense account .....	1 47
4	Charles Cooper .....	Expense account .....	61 25
5	J. W. Sullivan.....	Rent for collector at Lockland....	8 34
6	James Aylward .....	Rent for locktender at Lockland..	8 00
7	J. W. Gorman.....	Rent for locktender, Crescentville.	6 00
8	Fred Blursch .....	Feeding state boat team No. 1, etc.	22 60
9	Henry F. Eyler.....	Feeding state boat team No. 2, etc.	23 05
10	Cin. & Sub. Bell Tel. Co...	Telephone collector's office, Lockland .....	7 45
11	John Muller .....	Coal .....	3 75
12	Miamisburg Lumber Co....	Lumber .....	24 60
13	Cinti. & Sub. Be... Tel. Co.	Telephone .....	16 24
14	Charles E. Perkins.....	Travelling expenses as chief engr.	8 00
15	A. H. Sawyer.....	Services rendered .....	12 50
	Pay roll of officers.....	.....	509 17
	Pay roll No. 1.....	.....	167 25
	Pay roll No. 2.....	.....	92 00
	Pay roll No. 3.....	.....	75 00
	Pay roll No. 4.....	.....	50 00
	Total for month.....	.....	\$1,099 69
<i>March, 1906.</i>			
1	W. A. Gregg.....	Expense account .....	\$4 08
2	J. W. Sullivan.....	Expense account .....	1 20
3	E. C. Booth.....	Expense account .....	2 10
4	Charles Cooper .....	Expense account .....	61 87
5	J. W. Sullivan.....	Rent for collector at Lockland....	8 34
6	James Aylward .....	Rent for locktender at Lockland..	8 00
7	J. W. Gorman.....	Rent for locktender at Crescentville .....	6 00
8	Fred Blursch .....	Feeding state boat team No. 1, etc.	22 90
9	Henry F. Eyler .....	Feeding state boat team No. 2, etc.	22 65
10	John H. Class.....	Blacksmithing .....	1 95
11	Mrs. August Harm.....	Blacksmithing .....	3 35
12	Charles E. Perkins.....	Travelling expenses as chief engr..	9 00
13	Charles W. Diehl.....	Services rendered .....	8 00
	Pay roll of officers.....	.....	509 17
	Pay roll No. 1.....	.....	167 25
	Pay roll No. 2.....	.....	125 00
	Pay roll No. 3.....	.....	75 00

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
	Pay roll No. 4.....	.....	50 00
	Total for month.....	.....	\$1,085 86
<i>April, 1906.</i>			
1	W. A. Gregg.....	Expense account .....	\$1 00
2	J. W. Sullivan.....	Expense account .....	2 95
3	E. C. Booth.....	Expense account .....	3 40
4	Charles Cooper .....	Expense account .....	61 50
5	J. W. Sullivan.....	Rent for collector at Lockland....	8 34
6	James Aylward .....	Rent for locktender at Lockland..	8 00
7	J. W. Gorman.....	Rent for locktender at Crescent- ville .....	6 00
8	Fred Blursch .....	Feeding state boat team No. 1, etc.	23 90
9	Henry F. Eyler.....	Feeding state boat team No. 2, etc.	24 05
10	Frank Dine .....	Stamps, day book and expressage.	14 15
11	Charles E. Denny.....	Lumber .....	16 28
12	John Muller .....	Coal .....	26 25
13	Review Publishing Co.....	Printing .....	2 50
14	John Muller .....	Cement .....	45 15
15	James K. Aylward.....	Blacksmithing .....	15 55
16	Emil H. Guth.....	Blacksmithing .....	12 20
17	Cin. Bell. Tel. Co.....	Collector's office at Cincinnati....	15 00
18	John Rebor .....	Harness .....	10 60
19	John S. Spaerl.....	Hardware .....	6 73
20	Samuel Bachtell .....	Travelling expenses as asst. engr..	8 85
21	W. E. Thompson.....	Travelling expenses as secretary..	10 75
22	Charles E. Perkins.....	Travelling expenses as chief engr..	15 00
23	Fred R. Smith.....	Livery .....	49 50
24	J. W. Gorman.....	Labor .....	3 50
	Pay roll of officers.....	.....	509 17
	Pay roll No. 1.....	.....	247 75
	Pay roll No. 2.....	.....	150 62
	Pay roll No. 3.....	.....	75 00
	Pay roll No. 4.....	.....	50 00
	Total for month.....	.....	\$1,423 69
<i>May, 1906.</i>			
1	W. A. Gregg.....	Expense account .....	\$2 51
2	J. W. Sullivan.....	Expense account .....	1 90
3	E. C. Booth .....	Expense account .....	4 20
4	Charles Cooper .....	Expense account .....	63 80
5	J. W. Sullivan.....	Rent for collector at Lockland....	8 34
6	James Aylward .....	Rent for locktender at Lockland..	8 00
7	J. W. Gorman.....	Rent for locktender at Crescent- ville .....	6 00
8	Fred Blursch .....	Feeding state boat team No. 1, etc.	24 10
9	Cin. Bell. Tel. Co.....	Telephones at Lockland.....	22 27

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
10	J. W. Gorman.....	Teaming and labor.....	14 75
11	Emil H. Guth.....	Blacksmithing .....	9 45
12	J. R. Skinner.....	Blacksmithing .....	3 05
13	John Heuermann .....	Sacks .....	1 25
14	Hamilton Supply Co.....	Supplies for dredge No. 6.....	10 29
15	Frank Koehler .....	Hardware .....	58 80
16	Charles Cooper .....	Livery .....	82 75
17	Charles E. Perkins.....	Travelling expenses as chief engr..	10 00
18	C. B. Urischel.....	Supplies furnished .....	10 14
19	H. F. Eyler.....	Keeping .....	20 00
	Pay roll of officers.....	.....	534 16
	Pay roll No. 1.....	.....	329 48
	Pay roll No. 2.....	.....	75 00
	Pay roll No. 3.....	.....	37 03
	Pay roll No. 4.....	.....	317 00
	Total for month.....	.....	\$1,654 27
<i>June, 1906.</i>			
1	Fred Maag .....	Expense account .....	\$2 60
2	E. C. Booth.....	Expense account .....	2 60
3	J. W. Sullivan.....	Expense account .....	2 60
4	R. V. Denny.....	Expense account .....	3 85
5	Charles Cooper .....	Expense account .....	66 55
6	Fred Blursch .....	Feeding state boat team No. 1, etc.	25 20
7	Henry F. Eyler.....	Feeding state boat team No. 2, etc.	21 65
8	J. W. Sullivan.....	Rent for collector at Lockland....	8 34
9	James Aylward .....	Rent for locktender at Lockland..	8 00
10	J. W. Gorman.....	Rent for locktender at Crescent- ville .....	6 00
11	Frank Koehler .....	Hardware .....	62 75
12	Jomes Bohmer .....	Hardware, plumbing and labor....	2 40
13	Charles Cooper .....	Horse and buggy.....	20 00
14	John Class .....	Blacksmithing .....	3 25
15	Joseph T. Kaline.....	Blacksmithing .....	6 00
16	Carrie Strawser .....	Hire wagon .....	5 00
17	Levy & White.....	Desk and chair.....	30 00
18	Levy & White.....	Key and lock.....	75
19	Cin. Sub. Bell Tel. Co.....	Collector's office at Cincinnati....	15 00
20	Thomas Walsh .....	Labor .....	33 25
21	Lockland Lumber Co.....	Lumber .....	11 20
22	John Snyder .....	Teams .....	273 08
23	Charles E. Perkins.....	Travelling expenses as chief engr..	15 00
	Pay roll of officers.....	.....	579 17
	Pay roll No. 1.....	.....	304 74
	Pay roll No. 2.....	.....	283 99
	Pay roll No. 3.....	.....	139 08
	Pay roll No. 4.....	.....	75 00
	Total for month.....	.....	\$2,007 05



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>July, 1906.</i>			
1	Fred Maag .....	Expense account .....	\$2 00
2	J. W. Sullivan.....	Expense account .....	1 20
3	E. C. Booth.....	Expense account .....	2 40
4	R. V. Denny.....	Expense account .....	8 80
5	Charles Cooper .....	Expense account .....	60 70
6	Charles Cooper .....	Use of horse.....	20 00
7	J. W. Sullivan.....	Rent for collector at Lockland....	8 34
8	James Aylward .....	Rent for locktender at Lockland..	8 00
9	J. W. Gorman.....	Rent for locktender at Crescent- ville .....	6 00
10	Fred Blursch .....	Feeding state boat team No. 1, etc.	32 00
11	Henry F. Eyler.....	Feeding state boat team No. 2, etc.	30 30
12	F. E. Marlin.....	Blacksmithing .....	2 65
13	W. T. Johnson.....	Hardware .....	1 79
14	Emil H. Guth.....	Blacksmithing .....	6 05
15	J. & M. Rosenberger.....	Papering office at Cincinnati.....	23 00
16	W. H. Mullally.....	Papering state house, Cincinnati.	6 10
17	Mrs. Mollie Seely.....	Meals and lodging.....	73 50
18	Fred R. Smith.....	Teams, gravel and cement.....	110 30
19	Fred R. Smith.....	Livery .....	22 50
20	Charles E. Denny.....	Lumber .....	307 57
21	Morrison & Snodgrass Co.	Lumber .....	3 00
22	Grove & Weber Co.....	Lumber .....	13 98
23	Roth & Co.....	Hardware .....	4 95
24	C. C. Fouts.....	Hardware .....	31 14
25	John Ryling & Son.....	Duck for boat No. 1.....	19 60
26	Brown & Varney.....	Machine work .....	16 45
27	Kohmescher & Co.....	Rubber boots .....	22 00
28	James Heuermann .....	Sacks .....	1 25
29	Fox Paper Co.....	Lumber and labor.....	74 45
30	Thomas S. Harkness Co...	Repairs on office, Cincinnati.....	5 25
31	Bevis & Shortte.....	Cutting rivets from girder.....	17 10
32	Charles Weaver .....	Watching dredge and boarding boat	54 25
33	Charles E. Perkins.....	Travelling expenses as chief engr..	15 00
	Pay roll of officers.....	.....	534 16
	Pay roll No. 1.....	.....	513 87
	Pay roll No. 2.....	.....	333 61
	Pay roll No. 3.....	.....	75 00
	Pay roll No. 4.....	.....	210 86
	Total for month.....	.....	\$2,679 12
<i>August, 1906.</i>			
1	Fred Maag .....	Expense account .....	\$2 40
2	J. W. Sullivan.....	Expense account .....	1 10
3	E. C. Booth.....	Expense account .....	2 40
4	Charles Cooper .....	Expense account .....	61 90
5	J. W. Sullivan.....	Rent for collector at Lockland....	8 34
6	James Aylward .....	Rent for locktender at Lockland..	8 00
7	J. W. Gorman.....	Rent for locktender at Crescent- ville .....	6 00

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
8	Charles Cooper .....	Horse and buggy.....	20 00
9	Fred Blursch .....	Feeding state boat team No. 1, etc.	28 80
10	Henry F. Eyler.....	Feeding state boat team No. 2, etc.	24 00
11	Village of Lockland.....	Use of water.....	30 00
12	McIlvain & Spiegel.....	Iron work .....	24 65
13	Sorg Branch .....	Sacks .....	17 50
14	Cin. & Sub. Bell Tel. Co..	Telephone at Lockland.....	9 50
15	Cin. & Sub. Bell Tel. Co..	Telephone at supt.'s residence....	15 85
16	Fred R. Smith.....	Teaming and livery.....	31 50
17	Peter Funk .....	Feeding teams and lodging.....	7 50
18	Charles Weaver .....	Watching dredge No. 6.....	54 25
19	Albert Hebenstreet .....	Work at Amanda aqueduct.....	114 50
20	Albert Hebenstreet .....	Lumber .....	80 48
21	Kuhlman Hardware Co....	Hardware .....	50
22	Frank Koehler .....	Hardware .....	29 05
23	John Snyder .....	Teaming .....	180 00
24	John H. Class.....	Blacksmithing .....	75
25	Samuel Bachtell .....	Travelling expenses as asst. engr..	3 15
26	Charles E. Perkins.....	Travelling expenses as chief engr..	15 00
27	R. V. Denny.....	Carpenter work .....	62 50
	Pay roll of officers.....	.....	544 16
	Pay roll No. 1.....	.....	459 34
	Pay roll No. 2.....	.....	349 95
	Pay roll No. 3.....	.....	176 74
	Total for month.....	.....	\$2,369 81
<i>September, 1906.</i>			
1	J. W. Sullivan.....	Expense account .....	\$1 00
2	E. C. Booth.....	Expense account .....	1 10
3	Charles Cooper .....	Expense account .....	61 30
4	Charles Cooper .....	Horse and livery.....	20 00
5	Fred Blursch .....	Feeding state boat team No. 1, etc.	24 20
6	Henry F. Eyler.....	Feeding state boat team No. 2, etc.	31 25
7	J. W. Sullivan.....	Rent for collector at Lockland...	8 34
8	James Aylward .....	Rent for locktender at Lockland..	8 00
9	J. W. Gorman.....	Rent for locktender at Crescent- ville .....	6 00
10	Emil H. Guth.....	Blacksmithing .....	10 80
11	John Sawyer .....	Labor, watching dredge No. 4....	52 50
12	William Sheely .....	Washing dredge No. 6.....	18 26
13	Fox Paper Co.....	Repairing state boats Nos. 1 and 2	101 40
14	F. C. Schwartz.....	Supplies furnished dredge No. 6..	3 55
15	Fred R. Smith.....	Teaming and livery.....	61 70
16	Frank Martin .....	Labor, lumber and horse and wa- gon .....	64 50
17	Fred Steiner .....	Board and lodging.....	8 75
18	R. V. Denny.....	Labor .....	10 00
19	Charles Harms .....	Labor .....	17 50
20	George Rupp .....	Labor .....	17 50
21	C. E. Perkins.....	Travelling expenses as chief engr..	15 00

ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
22	Fred Smith .....	Livery .....	49 50
23	J. W. Gorman.....	Labor performed .....	3 50
24	L. Schreiber & Sons.....	Iron .....	635 04
25	Samuel Bachtell .....	Traveling expenses as asst. engr.	8 00
	Pay roll of officers.....	.....	544 16
	Pay roll No. 1.....	.....	429 87
	Pay roll No. 2.....	.....	433 62
	Total for month.....	.....	\$2,646 34
October, 1906.			
1	E. C. Booth.....	Expense account .....	\$2 00
2	J. W. Sullivan.....	Expense account .....	80
3	Charles Cooper .....	Expense account .....	61 60
4	Charles Cooper .....	Feeding and stabling horse.....	20 00
5	J. W. Sullivan.....	Rent for canal collector, Lockland.	8 34
6	James Aylward .....	Rent for lock tender, Lockland...	8 00
7	J. W. Gorman.....	Rent for lock tender, Crescent- ville .....	6 00
8	Fred Blursch .....	Feeding state boat team No. 1 and car fare for men.....	27 20
9	Henry F. Eyler.....	Feeding state boat team No. 2 and car fare for men.....	23 95
10	Charles Haas .....	Watching flume at Lesourdsville.	62 00
11	John Sawyer .....	Watching dredge No. 4 at Mi- amisburg .....	54 25
12	Cincinnati Bell Tel. Co.....	Telephone for collector's office, Cincinnati .....	15 75
13	A. Wuettisbach .....	Repairing collector's office, Cinti.	20 65
14	Frank Koehler .....	Hardware .....	28 09
15	F. M. Martin.....	Work on Lesourdsville aqueduct..	80 39
16	Charles E. Denney.....	Lumber .....	87 92
17	Allegheny Chemical Co....	Boiler compound .....	36 02
18	Pittsburg Chemical Co.....	Oil .....	14 95
19	Philip Cary Mfg. Co.....	Tar roofing and supplies for dredge No. 6.....	21 00
20	J. W. Gorman.....	Labor .....	6 00
21	C. E. Perkins.....	Traveling expenses as chief engr.	15 00
22	C. C. Fouts.....	Hardware .....	22 03
	Pay roll of officers.....	.....	544 16
	Pay roll No. 1.....	.....	397 49
	Pay roll No. 2.....	.....	121 62
	Pay roll No. 3.....	.....	50 00
	Total for month.....	.....	\$1,735 21
November, 1906.			
1	Fred Maag .....	Expense account .....	\$5 85
2	E. C. Booth.....	Expense account .....	2 75



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
3	J. W. Sullivan.....	Expense account .....	1 70
4	Charles Cooper .....	Expense account .....	57 30
5	Charles Cooper .....	Furnishing and feeding horse....	20 00
6	Cincinnati & Sub. Bell Telephone Co. ....	Telephone for collector's office at Lockland .....	8 35
7	J. W. Sullivan.....	Rent for canal collector, Lockland.	8 34
8	James Aylward .....	Rent for lock tender, Lockland..	8 00
9	J. W. Gorman.....	Rent for lock tender, Crescentville .....	6 00
10	Emil H. Guth.....	Blacksmithing .....	11 85
11	Fred Blursch .....	Feeding state boat team No. 1 and car fare for men.....	29 20
12	Henry F. Eyler.....	Feeding state boat team No. 2 and care fare for men.....	27 55
13	John Sawyer .....	Watching dredge No 4.....	52 50
14	Fred R. Smith.....	Livery and teaming.....	44 90
15	A. Ritter .....	Blacksmithing .....	4 15
16	Charles E. Denney.....	Supplies for lock house.....	1 65
17	Charles Haas .....	Watching flume .....	24 00
18	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	544 16
	Pay roll No. 1.....	.....	330 12
	Pay roll No. 2.....	.....	50 00
	Total for month.....	.....	\$1,280 37

## ABSTRACT OF MONEY PAID.

By Charles Cooper, Superintendent Sub-Division No. 1, Grand Division No. 3, Miami and Erie Canal, for Material and Labor for the Repair of Locks between Cincinnati and Dayton.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>January, 1906.</i>	
1	J. W. Montgomery.....	Lumber .....	\$303 48
2	T. S. Voorhees.....	Sand and teaming.....	3 00
3	Emil H. Guth.....	Blacksmithing .....	17 03
	Total for month.....	.....	\$323 51

## ABSTRACT OF MONEY PAID.

By John O'Connor, Superintendent Division No. 3, Sub-Division No. 2, Miami and Erie Canal, for Material and Labor for the Maintenance and Repair of the Public Works.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>December, 1905.</i>			
1	Elmer Wombold .....	Expenses as collector.....	\$4 90
2	Frank C. Davis.....	Expenses as collector.....	2 85
3	Lincoln Evans .....	Keeping team and expenses.....	24 80
4	Edward McConnell .....	Keeping team and expenses .....	34 50
5	Central Union Tel. Co.....	For collector's office at Dayton..	2 50
6	M. Morgan .....	Livery .....	9 50
7	Amer. Wagon Stock Mfg. Co. ....	Lumber for repairing lock gates..	22 08
8	The John Rouzer Co.....	Carpenter work on dredge 4.....	74 70
9	John M. O'Connor.....	Rent of canal boat.....	36 00
10	The Dayton Globe Iron Works .....	Repairs for dredge 4.....	12 75
11	Makley & Ryder .....	Horse shoeing for Dayton team..	3 00
12	John Bushnell .....	Horse shoeing for Piqua team....	3 10
13	Piqua Home Tel. Co.....	Telephone for foreman, 3 mos...	3 75
14	August Wise .....	Lumber for dam.....	10 23
15	Willman Bros. ....	Sacks .....	3 34
16	John O'Connor .....	Expenses as supt.....	59 70
17	Central Union Tel. Co.....	Rent of telephone for supt.'s of- fice .....	5 00
18	J. B. Conners Coal Co.....	Coal for dredge 4.....	51 08
19	Charles E. Perkins.....	Traveling expenses as chief engr.	12 00
20	W. H. McClintock.....	Traveling expenses as secretary..	15 00
21	C. M. Gracey.....	Typewriting services .....	1 25
	Pay roll of officers.....	.....	472 66
	Pay roll No. 1.....	.....	341 63
	Pay roll No. 2.....	.....	191 89
	Pay roll No. 3.....	.....	202 30
	Total for month.....	.....	\$1,600 51
<i>January, 1906.</i>			
1	Elmer Wombold .....	Expenses as collector.....	\$4 15
2	Frank C. Davis.....	Expenses as collector.....	3 75
3	Lincoln Evans .....	Keeping team and expenses.....	24 40
4	Edward McConnell .....	Keeping team and expenses.....	29 45
5	Central Union Tel. Co.....	Collector's office at Dayton.....	2 50
6	Huntsville Tel. Co.....	At Lewistown Reservoir .....	1 10
7	W. E. Clingan.....	Livery .....	1 50
8	Michael Moran .....	Livery .....	2 50
9	J. A. Clymer .....	Coal for dredge 4.....	2 07
10	Central Union Tel. Co.....	For supt.'s office.....	3 85
11	John O'Connor .....	Expenses as supt. ....	57 90
12	Charles A. Gump.....	Material for dredge 4.....	1 07
13	Charles E. Perkins.....	Traveling expenses as chief engr.	10 00
14	F. W. Schaub.....	Messenger services .....	6 66

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
15	W. H. McClintock.....	Traveling expenses as secretary...	10 00
16	J. S. Mosgrove.....	Bonding services .....	10 80
	Pay roll of officers.....	.....	406 66
	Pay roll No. 1.....	.....	318 12
	Total for month.....	.....	\$896 48
<i>February, 1906.</i>			
1	Elmer Wombold .....	Expenses as collector.....	\$4 30
2	Frank C. Davies .....	Expenses as collector.....	3 70
3	Lincoln Evans .....	Keeping team and expenses.....	22 90
4	Edward McConnell .....	Keeping team and expenses.....	29 20
5	Central Union Tel. Co.....	For supt.'s office.....	3 95
6	Central Union Tel. Co.....	For collector's office.....	3 50
7	Makley & Ryder .....	Shoeing for Dayton team.....	3 25
8	John O'Connor .....	Expenses as supt.....	58 70
9	Willman Bros. ....	Rubber boots .....	4 75
10	Huntsville Tel. Co.....	At Lewistown Reservoir .....	80
11	August Wise .....	Lumber for dams.....	69 87
12	John Bushnell .....	Shoeing for Piqua team.....	1 80
13	T. W. Campbell.....	Postal cards for gauge reports...	7 00
14	Samuel Bachtell .....	Traveling expenses as asst. engr.	5 00
15	Charles E. Perkins.....	Traveling expenses as chief engr.	12 00
	Pay roll of officers.....	.....	406 66
	Pay roll No. 1.....	.....	149 00
	Pay roll No. 2.....	.....	151 58
	Total for month.....	.....	\$937 96
<i>March, 1906.</i>			
1	Elmer Wombold .....	Expenses as collector.....	\$4 60
2	Frank C. Davies.....	Expenses as collector.....	2 75
3	Lincoln Evans .....	Keeping team and expenses.....	25 30
4	Edward McConnell .....	Keeping team and expenses.....	33 10
5	Central Union Tel. Co.....	Telephone for supt.....	5 30
6	Central Union Tel. Co.....	Telephone at Dayton.....	3 50
7	Piqua Home Tel. Co.....	Telephone for foreman, 3 mos...	3 75
8	M. Moran .....	Livery .....	2 00
9	John O'Connor .....	Expenses as supt.....	55 80
10	Charles E. Perkins.....	Traveling expenses as chief engr.	10 00
11	Charles W. Diehl.....	Services rendered .....	8 00
	Pay roll of officers.....	.....	472 66
	Pay roll No. 1.....	.....	163 00
	Pay roll No. 2.....	.....	129 10
	Total for month.....	.....	\$918 86



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>April, 1906.</i>			
1	Elmer Wombold .....	Expenses as collector.....	\$4 60
2	Frank C. Davies.....	Expenses as collector.....	6 00
3	Lincoln Evans .....	Keeping team and expenses.....	33 50
4	Edward McConnell .....	Keeping team and expenses.....	37 70
5	Central Union Tel. Co.....	Collector's office at Dayton.....	3 50
6	Charles H. Cook.....	Dressing tools and repairing wagon	6 25
7	Alex. Gebhart & Co.....	Lumber for running plank.....	10 50
8	Miami Lumber Co.....	Lumber for Oaks Creek.....	69 44
9	The Tipp Bldg. & Mfg. Co.	Lumber for dam at Oaks Creek..	72 69
10	C. L. Wood.....	Shingles at Lockington.....	31 50
11	W. F. Robbins.....	Livery at Piqua .....	3 50
12	B. D. Wissman.....	Livery at Minster .....	3 25
13	Central Union Tel. Co.....	Rent and tolls for supt.'s office....	5 45
14	John O'Connor .....	Expenses as supt.....	57 60
15	Wm. E. Glingman.....	Livery and wagon hire.....	24 00
16	Willman Bros. ....	Sacks .....	3 38
17	W. E. Thompson.....	Traveling expenses as secretary..	3 35
18	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
19	Charles E. Perkins.....	Drawing material .....	1 70
20	American Surety Co.....	Bond for collectors .....	10 80
	Pay roll of officers.....	.....	406 66
	Pay roll No. 1.....	.....	411 86
	Pay roll No. 2.....	.....	177 05
	Total for month.....	.....	\$1,399 34
<i>May, 1906.</i>			
1	Elmer Wombold .....	Expenses as collector.....	\$6 15
2	Frank C. Davies.....	Expenses as collector.....	8 10
3	Lincoln Evans .....	Keeping team and expenses.....	24 40
4	Edward McConnell .....	Keeping team and expenses.....	30 60
5	Central Union Tel. Co.....	For supt.'s office at Dayton.....	5 35
6	Central Union Tel. Co.....	For collector's office at Dayton....	3 50
7	W. M. Whitmore.....	Coal .....	4 50
8	Charles A. Gump.....	Rubber boots .....	12 00
9	John O'Connor .....	Expenses as supt.....	56 30
10	Henne Bros. ....	Rubber boots .....	5 00
11	Charles H. Cook.....	Blacksmith work .....	3 41
12	Makley & Ryder.....	Shoeing team .....	3 00
13	Clem L. Kimmel.....	Nails for repair boat.....	4 60
14	W. E. Rodgers.....	Plow and harrow .....	33 00
15	Wood, Cox & Son.....	Hardware .....	17 89
16	F. E. Leatherman.....	Spikes .....	8 80
17	Phisher & Phillippi.....	Harness repairs .....	3 10
18	The Tipp Bldg. & Mfg. Co.	Lumber for running plank.....	8 32
19	C. L. Wood.....	Lumber .....	12 07
20	Lincoln Evans .....	R. R. fare.....	9 90
21	Wm. E. Clingman.....	Team .....	39 00
22	G. W. Lewis.....	Material for dredge boat.....	60 80
23	The Robert Hixon Co.....	Lumber at Lewistown Reservoir.	40 70
24	A. C. House.....	Sacks .....	10 00

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
25	The United Tel. Co.....	Service at Lewistown Reservoir..	1 10
26	A. O. T. Andrus.....	Livery .....	4 70
27	The Robert Hixon Co.....	Lumber .....	54 52
28	Central Union Tel. Co.....	Service at Lewistown Reservoir..	80
29	Frank J. McColloch.....	Services at Lewistown Reservoir.	25 00
30	Frank M. Stubbs.....	Boats rafting floating timber.....	30 00
31	M. Moran .....	Livery at Dayton.....	2 00
32	Samuel Bachtell .....	Traveling expenses as asst. engr.	3 00
33	Charles E. Perkins.....	Traveling expenses as chief engr.	12 50
	Pay roll of officers.....	.....	406 66
	Pay roll No. 1.....	.....	643 48
	Pay roll No. 2.....	.....	553 63
	Pay roll No. 3.....	.....	421 13
	Total for month.....	.....	\$2,564 01
<i>June, 1906.</i>			
1	Elmer Wombold .....	Expenses as collector at Dayton...	\$4 25
2	Frank C. Davies.....	Expenses as collector.....	8 00
3	Lincoln Evans .....	Keeping team and expenses as foreman .....	27 40
4	Edw. McConnell .....	Keeping team and expenses as foreman .....	26 85
5	Central Union Tel. Co.....	Rent and tolls for supt.'s office...	4 70
6	John Bushnell .....	Blacksmith work .....	6 00
7	The Piqua Telephone Co...	Rent for 3 mos. for foreman.....	3 75
8	S. Zolinger & Co.....	Cement .....	5 55
9	August Wise .....	Lumber for lock gates and balance beams .....	113 83
10	L. N. Woodcox & Son....	Hardware and rope.....	23 59
11	Samuel Avey .....	Freight on lumber.....	5 00
12	John O'Connor .....	Expenses as supt.....	58 60
13	T. D. Eichelberger.....	Cement for culvert at Oaks Creek.	15 20
14	Frank M. Stubbs.....	Piling for Lewistown reservoir bank .....	475 20
15	Frank M. Stubbs.....	Rent of boat rafting drift wood...	28 00
16	A. O. T. Andrus.....	Livery at Lewistown reservoir....	4 00
17	Makley & Ryder.....	Shoeing for Dayton team.....	3 00
18	Clem L. Kimmel.....	Hardware for Dayton repair boat.	7 37
19	Foster, Hegman & Co.....	Paper for Dayton lock house.....	3 60
21	The Paterson Tool Co.....	Forge for dredge No. 4.....	10 80
22	The Geo. J. Roberts Co....	Steam pump for dredge No. 4....	74 80
23	Clem L. Kimmel.....	Hardware and rope for dredge No. 4 .....	14 88
24	Chas. H. Cook.....	Blacksmith work .....	2 87
25	Central Union Tel. Co.....	Rent of telephone for collector...	3 50
26	M. Moran .....	Livery to Miami aqueduct.....	8 00
27	Alexander Gebhart & Co...	Lumber for aqueduct wall.....	121 18
28	T. D. Eichelberger's Sons.	Cement for Miami aqueduct.....	235 60
29	Samuel Bachtell .....	Traveling expenses as asst. engr.	11 15
30	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00

ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
31	Leo Veit .....	Repairing transit for chief engr...	8 75
	Pay roll of officers.....	.....	487 66
	Pay roll No. 1.....	.....	222 87
	Pay roll No. 2.....	.....	798 70
	Pay roll No. 3.....	.....	280 25
	Total for month.....	.....	\$3,119 90
July, 1906.			
1	Elmer Wombold .....	Expenses as collector.....	\$4 15
2	Frank C. Davies.....	Expenses as collector.....	6 50
3	Lincoln Evans .....	Keeping team and expenses.....	33 40
4	Edward McConnell .....	Keeping team and expenses.....	38 40
5	Central Union Tel. Co.....	For supt.'s office.....	6 70
6	Huntsville Tel. Co.....	Tolls at Lewistown Reservoir....	1 20
7	The United Tel. Co.....	Tolls at Lewistown Reservoir....	40
8	Clem L. Kimmel.....	Tools and rope.....	13 06
9	I. N. Woodcox.....	Hardware .....	5 78
10	Danner & O'Leary.....	Pump .....	6 00
11	Alex. Gebhart & Co.....	Lumber .....	20 00
12	D. Leonard & Son.....	Harness .....	35 00
13	Makley & Ryder.....	Horse shoeing .....	3 00
14	John Bushnell .....	Horse shoeing .....	1 60
15	F. W. Snyder.....	Blacksmith work .....	4 25
16	Michael Moran .....	Livery .....	7 00
17	A. O. T. Andrus.....	Livery .....	22 50
18	B. Wissman .....	Livery .....	1 50
19	W. F. Robbins.....	Livery .....	6 00
20	Frank M. Stubbs.....	Piling at Lewistown Reservoir...	457 92
21	Frank M. Stubbs.....	Rent of boats.....	16 00
22	James Burt .....	Making lock gates.....	75 00
23	John O'Connor .....	Expenses as supt.....	59 30
24	Charles E. Perkins.....	Travelling expenses as chief engr..	15 00
	Pay roll of officers.....	.....	431 66
	Pay roll No. 1.....	.....	434 11
	Pay roll No. 2.....	.....	899 90
	Pay roll No. 3.....	.....	376 75
	Total .....	.....	\$2,982 08
August, 1906.			
1	Elmer Wombold .....	Expenses as collector.....	\$4 05
2	Frank C. Davies .....	Expenses as collector.....	5 05
3	Lincoln Evans .....	Keeping team and expenses.....	31 80
4	Edward McConnell .....	Keeping team and expenses.....	44 90
5	Central Union Tel. Co.....	For collector's office.....	3 90
6	Central Union Tel Co.....	For collector's office.....	4 30
7	Makley & Ryder .....	Horse shoeing .....	3 00
8	Weed Supply Co.....	Snatch blocks .....	6 80



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
9	George Rider .....	Blacksmith work .....	2 00
10	I. N. Woodcox & Son.....	Spikes and nails.....	6 00
11	C. L. Wood.....	Lumber .....	15 45
12	F. E. Leatherman.....	Hardware and rope.....	6 45
13	James L. Day.....	Nails used rafting logs.....	10 05
14	Frank M. Stubbs.....	Rent of boats.....	42 00
15	Central Union Tel. Co.....	Telephone and tolls for supt.....	7 60
16	John O'Connor .....	Expenses as supt.....	59 50
17	Charles H. Cook.....	Blacksmith work .....	2 25
18	Alexander Gebhart Co.....	Lumber .....	80 01
19	Clem L. Kimmel.....	Tools and nails.....	19 50
20	Samuel Bachtell .....	Travelling expenses as asst. engr..	3 10
21	Charles E. Perkins.....	Travelling expenses as chief engr..	15 00
	Pay roll of officers.....	.....	431 66
	Pay roll No. 1.....	.....	286 98
	Pay roll No. 2.....	.....	369 50
	Total for month.....	.....	\$1,460 85
<i>September, 1906.</i>			
1	Elmer Wombold .....	Expenses as collector.....	\$4 50
2	F. C. Davies.....	Expenses as collector.....	5 00
3	Lincoln Evans .....	Keeping team and expenses.....	24 90
4	Edward McConnell .....	Keeping team and expenses.....	28 40
5	E. Cappel .....	Supplies for repair boat No. 1....	24 00
6	Clem Kimmel .....	Tools for repair boat No. 1.....	39 35
7	Charles H. Cook.....	Repairs on plow.....	3 00
8	George Rider .....	Blacksmith work .....	3 95
9	John Bushnell .....	Blacksmith work .....	2 50
10	Frank M. Stubbs.....	Piling for Lewistown Reservoir..	103 68
11	Frank M. Stubbs.....	Boats for rafting timber.....	8 50
12	Henne Bros. ....	Rubber boots .....	16 00
13	Huntsville Tel. Co.....	Service at Lewistown Reservoir..	1 30
14	Piqua Home Tel. Co.....	Rent of telephone.....	3 75
15	Central Union Tel Co.....	Rent of telephone.....	3 50
16	Central Union Tel Co.....	Rent of telephone.....	4 15
17	Dr. W. R. Howe, V. S.....	Veterinary services .....	1 50
18	John O'Connor .....	Expenses as supt.....	59 20
19	Charles E. Perkins .....	Expenses as chief engr.....	15 00
	Pay roll of officers.....	.....	497 66
	Pay roll No. 1.....	.....	210 25
	Pay roll No. 2.....	.....	326 50
	Total for month.....	.....	\$1,386 59
<i>October, 1906.</i>			
1	Elmer Wombold .....	Expenses as collector.....	\$6 85
2	Frank C. Davies.....	Expenses as collector.....	5 05
3	Lincoln Evans .....	Keeping team and other expenses..	25 30

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
4	Edward McConnell .....	Keeping team and other expenses..	34 10
5	Central Union Tel. Co.....	Telephone for collector's office...	3 90
6	Central Union Tel. Co.....	Telephone for supt.'s office.....	5 60
7	Makeley & Ryder.....	Horse shoeing .....	3 40
8	Charles H. Cook.....	Making pike hooks.....	6 50
9	John Bushnell .....	Shoeing for Piqua team.....	1 10
10	I. N. Woodcox & Son.....	Hardware .....	95
11	C. L. Wood.....	Lumber for lock repairs.....	10 65
12	P. I. Hedges.....	Material for McConnell, foreman.	75
13	Slusser-McLean Co. ....	Castings for lock gates.....	73 17
14	A. O. T. Andrews.....	Livery at Lewistown reservoir....	4 00
15	Frank Stubbs .....	Earth for repairing Lewistown re- servoir bank .....	57 50
16	John O'Connor .....	Advertising canal notice.....	16 35
17	John O'Connor .....	Expenses as supt.....	59 65
18	Charles A. Gump.....	Rubber boots .....	40 50
19	John O'Connor .....	Rent of telephone at Dryden's lock	9 00
20	Samuel Bachtell .....	Travelling expenses as asst. engr..	7 55
21	C. E. Perkins.....	Travelling expenses as chief engr..	15 00
	Pay roll of officers.....	.....	431 66
	Pay roll No. 1.....	.....	249 62
	Pay roll No. 2.....	.....	642 75
	Total for month.....	.....	\$1,710 90
<i>November, 1906.</i>			
1	Elmer Wombold .....	Epenses as collector.....	\$6 65
2	D. C. Statler.....	Loss of stone from boat.....	13 25
3	Lincoln Evans .....	Keeping team and expenses.....	28 10
4	Edw. McConnell .....	Keeping team and expenses.....	46 60
5	Central Union Tel. Co.....	Telephone for office of supt.....	4 60
6	J. M. Deam.....	Services as surgeon for men hurt at aqueduct .....	8 00
7	Clem L. Kimmel.....	Material for Evans, foreman....	90
8	Charles H. Cook.....	Making irons for pike pole.....	2 61
9	J. M. W. Cromes.....	Roofing material for lock house..	4 58
10	John O'Connor .....	Expenses as supt.....	59 50
11	A. O. T. Andrus.....	Livery .....	3 00
12	John M. O'Connor.....	Earth to raise bank at Lewistown reservoir .....	87 43
13	M. Hurley .....	Livery at Lakeview by supt.....	7 75
14	Albert Shaffer .....	Earth to make bank at Troy feeder	16 00
15	M. Moran .....	Livery at Dayton by supt.....	10 50
16	Sweetman Printing House.	Printing canal notices.....	4 00
17	Charles E. Perkins.....	Travelling expenses as chief engr..	15 00
	Pay roll of officers.....	.....	431 66
	Pay rolls Nos. 1 & 2.....	.....	849 51
	Total for month.....	.....	\$1,599 64

## ABSTRACT OF MONEY PAID.

By John O'Connor, Superintendent Sub-Division No. 2, Grand Division No. 3,  
Miami and Erie Canal, for Material and Labor for Repairing Banks of  
Lewistown Reservoir.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>January, 1906.</i>			
1	Frank M. Stubbs.....	Piling for protection of Lewistown reservoir bank .....	151 20
	Pay roll No. 1.....	.....	27 98
	Total for month.....	.....	\$179 18
<i>March, 1906.</i>			
1	A. C. House.....	Lumber .....	\$71 89
2	James A. Marshall.....	Sacks .....	29 50
3	James M. Duff.....	Fodder .....	15 15
4	E. L. Frey.....	Rubber boots .....	13 25
5	The Huntsville Tel. Co....	Tolls .....	2 40
6	The United Tel. Co.....	Tolls .....	1 00
7	A. O. T. Andrus.....	Livery .....	3 50
8	Eliot & Compton.....	Refreshments for men at night...	3 75
9	Elmer Cox .....	53 meals at 25 cents each.....	13 25
	Pay roll No. 1.....	.....	149 00
	Pay roll No. 2.....	.....	101 12
	Total for month.....	.....	\$403 81
<i>April, 1906.</i>			
1	Frank M. Stubbs.....	Piling .....	\$432 00
2	James L. Day.....	Repairing .....	5 50
3	United Tel. Co.....	Telephone service .....	2 25
4	The Huntsville Tel. Co...	Telephone service .....	90
5	A. O. T. Andrus.....	Livery .....	6 00
6	Frank M. Stubbs.....	Rent of boats.....	29 00
7	A. C. House.....	Sacks .....	28 00
	Pay roll No. 1.....	.....	376 10
	Total for month.....	.....	\$879 75
<i>May, 1906.</i>			
1	James L. Day.....	Nails .....	\$13 22
	Total for month.....	.....	\$13 22



## ABSTRACT OF MONEY PAID.

By John O'Connor, Superintendent Division No. 3, Sub-Division No. 2, Miami and Erie Canal, for Material and Labor for the Repairs of the Miami Aqueduct.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>March, 1906.</i>	
1	Huston & Cleveland.....	Miami River Aqueduct.....	\$4,750 00
	Total for month.....	.....	\$4,750 00
		<i>May, 1906.</i>	
1	M. Moran .....	Livery .....	\$13 50
	Pay roll No. 1.....	.....	113 75
	Total for month.....	.....	\$127 25
		<i>June, 1906.</i>	
	Pay roll No. 1.....	.....	\$372 75
	Total for month.....	.....	\$372 75

## ABSTRACT OF MONEY PAID.

By John O'Connor, Superintendent Division No. 3, Sub-Division No. 2, Miami and Erie Canal, for Material and Labor for the Repairs of Mad River Aqueduct.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>March, 1906.</i>	
1	Clem L. Kimmel .....	Nails .....	\$10 48
	Total for month.....	.....	\$10 48

## ABSTRACT OF MONEY PAID.

By H. W. Meacham, Superintendent Sub-Division No. 3, Grand Division No. 3,  
Miami and Erie Canal, for Material and Labor for the Maintenance and  
Repair of the Public Works.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>December, 1905.</i>			
1	The Ohio Builders' Supply Co. ....	Gravel and cement.....	\$35 96
2	J. L. Haney .....	Gravel .....	6 50
3	J. A. Bogart.....	Harness repairs .....	3 10
4	Dr. W. C. Holden.....	Services as veterinary.....	2 00
5	W. A. Moxley.....	Expenses as collector.....	9 25
6	D. H. Hancock.....	Expenses as collector and rent....	20 57
7	Toledo Home Tel Co.....	Telephone rent .....	15 00
8	Tod Trowbridge .....	Telephone rent and postage.....	2 54
9	Frank Bennett .....	Telephone rent and expenses.....	9 90
10	S. E. Allmon.....	Keeping team, etc.....	22 35
11	J. R. Spencer.....	Keeping team, etc.....	20 40
12	D. C. Lee.....	Livery .....	6 00
13	J. W. McGovney.....	Livery .....	6 00
14	The Morse Livery Co.....	Livery .....	10 75
15	Joseph Hitz .....	Blacksmithing .....	23 00
16	Bissonnett & Deibel.....	Hardware .....	2 00
17	Waterville Hardware Co...	Hardware .....	4 79
18	Dunan & Koeper .....	Hardware .....	11 25
19	C. J. Stickney & Co.....	Lumber .....	8 13
20	H. W. Meacham.....	Expenses as supt.....	85 15
21	Charles E. Perkins.....	Travelling expenses as chief engr..	10 00
22	W. H. McClintock.....	Travelling expenses as secretary..	15 00
23	Bertha Young .....	Typewriting services .....	1 50
	Pay roll of officers.....	.....	669 48
	Pay roll No. 1.....	.....	368 25
	Total for month.....	.....	\$1,363 87
<i>January, 1906.</i>			
1	H. W. Myers.....	Expenses as collector.....	\$5 00
2	Central Union Tel. Co.....	Telephone rent and messages.....	9 90
3	Citizens Tel. Co.....	Telephone rent .....	6 00
4	United States Tel. Co.....	Telephone messages .....	3 00
5	Tod Trowbridge .....	Telephone rent .....	1 50
6	Wesley McDonald .....	Telephone rent and expenses.....	6 60
7	Frank Bennett .....	Telephone rent and expenses.....	4 30
8	S. E. Allmon.....	Keeping team and expenses.....	21 05
9	J. R. Spencer.....	Keeping team and expenses.....	10 30
10	George Sheperd .....	Livery .....	1 50
11	George Weadock .....	Livery .....	27 00
12	G. H. Blaker.....	Hardware .....	7 54
13	W. A. Kehnst & Co.....	Hardware .....	48 15
14	Charles L. Koch & Co.....	Lumber .....	4 22
15	H. W. Meacham.....	Expenses as supt.....	93 65
16	Charles E. Perkins.....	Expenses as chief engr.....	13 50

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
17	J. S. Mosgrove.....	Bonding services .....	12 60
18	W. H. McClintock.....	Travelling expenses as secretary..	10 00
19	F. W. Schaub.....	Messenger services .....	6 66
	Pay roll of officers.....	.....	669 48
	Pay roll No. 1.....	.....	253 25
	Total for month.....	.....	\$1,215 20
<i>February, 1906.</i>			
1	C. C. Domitio.....	Coal .....	\$7 25
2	S. L. Teeple.....	Services as veterinary.....	5 00
3	United States Tel. Co....	Telephone messages .....	2 55
4	Tod Trowbridge .....	Telephone rent .....	1 50
5	Wesley McDonald .....	Telephone rent .....	3 20
6	Frank Bennett .....	Expenses as foreman .....	5 25
7	S. E. Allmon.....	Keeping team, etc.....	20 60
8	J. R. Spencer.....	Keeping horse, etc.....	10 80
9	J. O. Sloan.....	Livery .....	16 00
10	Wolford & Berry.....	Hardware .....	4 88
11	Herman Ricker & Sons....	Lumber .....	7 60
12	H. W. Meacham.....	Expenses as supt.....	82 40
13	Charles E. Perkins.....	Traveling expenses as chief engr.	10 00
14	Samuel Bachtell .....	Traveling expenses as asst. engr.	5 50
	Pay roll of officers.....	.....	669 48
	Pay roll No. 1.....	.....	209 24
	Total for month.....	.....	\$1,061 25
<i>March, 1906.</i>			
1	C. C. Domitio .....	Coal .....	\$7 25
2	Jos. McGahan .....	Attending waste gates.....	15 00
3	H. W. Myers.....	Expenses as collector.....	3 50
4	D. H. Hancock.....	Expenses as collector and rent...	16 67
5	Toledo Home Tel. Co.....	Telephone rent .....	15 00
6	Tod Trowbridge .....	Telephone rent .....	1 50
7	Central Union Tel. Co....	Telephone rent and messages....	10 70
8	The Northern Ohio Tel....	Telephone rent and messages....	11 95
9	The United States Tel. Co.	Telephone messages .....	2 60
10	Wesley McDonald .....	Telephone messages and expenses.	2 20
11	Frank Bennett .....	Telephone messages and expenses.	3 55
12	S. E. Allmon.....	Keeping team, etc.....	32 15
13	J. R. Spencer.....	Keeping horse, etc.....	10 45
14	J. W. McGovney.....	Livery .....	4 50
15	William Jones .....	Livery .....	37 50
16	Johns & Good.....	Blacksmithing .....	13 05
17	W. H. McClintock.....	Expense at Wapakoneta dynamite case .....	74 50
18	W. H. McClintock.....	Expenses as secretary .....	25 00
19	H. W. Meacham.....	Expenses as supt.....	79 80



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
20	Charles E. Perkins.....	Traveling expenses as chief engr.	11 00
21	Charles W. Diehl.....	For services rendered.....	8 00
22	Charles W. Diehl.....	For services rendered.....	27 00
	Pay roll of officers.....	.....	669 48
	Pay roll No. 1.....	.....	150 38
	Pay roll No. 2.....	.....	86 50
	Total for month.....	.....	\$1,319 23
<i>April, 1906.</i>			
1	The M. I. Wilcox Co.....	Rope and pike pole.....	\$13 63
2	W. H. Doll.....	Paint .....	15 60
3	The Glass Block Co.....	Oil cloth and canvas.....	8 75
4	The L. Beckman Co.....	Repairing Wye level, etc.....	29 20
5	The Defiance Mach. Works	Castings .....	78 48
6	H. W. Myers.....	Expenses as collector.....	3 34
7	The Northwestern Tel. Co.	Telephone rent and messages.....	26 25
8	The Citizens' Tel. Co.....	Telephone rent .....	6 00
9	Tod Trowbridge .....	Telephone rent .....	1 50
10	Wesley McDonald .....	Telephone rent and expenses.....	4 05
11	Frank Bennett .....	Telephone rent and expenses.....	6 20
12	S. E. Allmon.....	Keeping team, etc.....	24 90
13	J. R. Spencer.....	Keeping horse, etc.....	25 35
14	Philip Grant .....	Livery .....	22 50
15	George W. Weadock.....	Livery .....	33 00
16	Kollsmith Bros. ....	Blacksmithing .....	16 70
17	L. Archambeault .....	Blacksmithing .....	34 60
18	Dunen & Koeper.....	Hardware .....	8 21
19	St. Marys Planing Mills....	Lumber .....	9 00
20	William Mackenbach .....	Lumber and cement.....	69 60
21	H. W. Meacham.....	Expenses as supt.....	89 30
22	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
23	E. L. Stallkamp.....	For funds advanced.....	39 94
24	E. E. Carter.....	For funds advanced.....	113 58
25	H. M. Davies.....	For funds advanced.....	80 76
26	C. J. Daoust.....	For funds advanced.....	34 40
27	W. O. Smith.....	For funds advanced.....	3 00
28	C. V. Backus.....	For funds advanced.....	17 25
29	T. E. Vanaetaker.....	For funds advanced.....	4 83
30	E. Maehlman .....	For funds advanced.....	14 40
	Pay roll of officers.....	.....	669 48
	Pay roll No. 1.....	.....	321 12
	Pay roll No. 2.....	.....	269 00
	Total for month.....	.....	\$2,108 92
<i>May, 1906.</i>			
1	The Defiance Mach. Works.	Castings .....	\$52 32
2	R. B. Anderson.....	Expenses in trial of L. L. Sheely.	30 00

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
3	The L. Beckman Co.....	Tracing cloth, etc.....	12 10
4	Tug Dan W. Miller.....	Cleaning lock No. 52.....	24 00
5	United States Tel. Co.....	Telephone messages .....	1 35
6	Tod Trowbridge .....	Telephone rent .....	1 50
7	Wesley McDonald .....	Telephone rent and messages.....	2 60
8	Frank Bennett .....	Expenses as foreman .....	2 85
9	S. E. Allmon.....	Keeping team, etc.....	30 45
10	J. R. Spencer.....	Keeping team, etc.....	20 35
11	S. G. Floyd.....	Livery .....	2 00
12	George W. Weeks.....	Livery .....	6 00
13	J. P. Sautler.....	Livery .....	6 75
14	John Noffsinger .....	Blacksmithing .....	3 00
15	Jos. Hitz .....	Blacksmithing .....	90 05
16	M. L. Haviland.....	Hardware .....	1 01
17	Dunan & Koeper.....	Hardware .....	4 25
18	The W. A. Kuhlman Co...	Hardware .....	139 40
19	H. B. Teuzer Co.....	Lumber .....	2 27
20	Wm. Peter, Estate .....	Lumber .....	3 52
21	The Maclaren & Sprague Co. ....	Lumber .....	10 67
22	W. T. Hubbard.....	Lumber .....	30 24
23	Blade Printing & Paper Co.	Office files .....	98 05
24	H. W. Meacham.....	Expenses as supt.....	69 55
25	C. E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	694 48
	Pay roll No. 1.....	.....	421 37
	Pay roll No. 2.....	.....	436 75
	Total for month.....	.....	\$2,211 88
<i>June, 1906.</i>			
1	P. E. Sweet.....	Halters .....	\$4 75
2	A. M. Minsel.....	Wall paper .....	6 80
3	Levi Shock .....	Labor at lock No. 33.....	10 00
4	S. A. Thomas.....	Labor at Otsego.....	15 00
5	Jos. McGahan .....	Labor at Auglaize River Aque- duct .....	15 00
6	H. W. Myers.....	Expenses as collector.....	3 20
7	D. H. Hancock.....	Expenses as collector and rent....	19 03
8	Jos. A. Claypool.....	Expenses as collector and rent....	35 57
9	The United States Tel. Co.	Telephone messages .....	95
10	Central Union Tel. Co.....	Telephone rent and messages.....	10 30
11	Toledo Home Tel. Co.....	Telephone rent .....	15 00
12	Tod Trowbridge .....	Telephone rent .....	1 50
13	Wesley McDonald .....	Telephone rent and expenses.....	2 80
14	Frank Bennett .....	Expenses as foreman.....	3 60
15	S. E. Allmon.....	Keeping team, etc.....	24 80
16	J. R. Spencer.....	Keeping team, etc.....	20 75
17	Bissonnett & Diebel.....	Hardware .....	3 95
18	W. A. Kehnast Co.....	Hardware .....	5 34
19	William Peter Estate .....	Lumber .....	1 50

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
20	W. Hellum .....	Lumber .....	21 83
21	John A. Aspacher & Co. ....	Lumber .....	194 88
22	Theisen & Hildred .....	Lumber .....	256 06
23	H. W. Meacham .....	Expenses as supt. ....	55 80
24	Charles E. Perkins .....	Traveling expenses as chief engr.	15 00
	Pay roll of officers .....	.....	684 48
	Pay roll No. 1 .....	.....	378 75
	Pay roll No. 2 .....	.....	296 50
	Pay roll No. 3 .....	.....	128 75
	Total for month .....	.....	\$2,231 89
<i>July, 1906.</i>			
1	The M. L. Wilcox Co. ....	Oakum, paint, etc. ....	\$25 68
2	King & Williams .....	Paint .....	9 10
3	A. L. Fisher .....	Crushed stone .....	4 83
4	C. C. Domitio .....	Straw .....	70
5	W. T. Remlinger .....	Wall paper and paint .....	3 80
6	Defiance Mach. Works .....	Castings .....	209 28
7	The L. Beckman Co. ....	Engineer's supplies .....	10 50
8	A. E. Shaffer .....	Cutting weeds .....	27 75
9	H. W. Myers .....	Expenses as collector .....	2 65
10	United States Tel. Co. ....	Telephone messages .....	1 50
11	Citizens Tel. Co. ....	Telephone rent .....	6 00
12	Northern Ohio Tel. Co. ....	Telephone rent .....	8 30
13	Tod Trowbridge .....	Telephone rent .....	1 50
14	Wesley McDonald .....	Telephone rent and expenses .....	3 50
15	Frank Bennett .....	Expenses as foreman .....	5 80
16	S. E. Allmon .....	Keeping team, etc. ....	39 70
17	J. R. Spencer .....	Keeping team, etc. ....	28 80
18	George W. Weadock .....	Livery .....	29 00
19	John Walter .....	Blacksmithing .....	6 15
20	Joseph Hitz .....	Blacksmithing .....	7 75
21	S. A. Johns .....	Blacksmithing .....	31 25
22	Dunan & Koeper .....	Hardware .....	11 42
23	Ulrich & Sons .....	Hardware .....	15 15
24	Bissonett & Diebel .....	Hardware .....	20 45
25	Delphos Hardware Co. ....	Hardware .....	72 94
26	C. W. Schmehl .....	Lumber .....	11 57
27	Wm. Mackenbach .....	Lumber .....	11 74
28	H. W. Meacham .....	Expenses as supt. ....	69 35
29	Charles E. Perkins .....	Traveling expenses as chief engr.	15 00
	Pay roll of officers .....	.....	684 48
	Pay roll No. 1 .....	.....	538 66
	Pay roll No. 2 .....	.....	544 50
	Total for month .....	.....*	\$2,458 80



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
<i>August, 1906.</i>			
1	The Defiance Mach. Works	Castings .....	\$78 48
2	C. C. Domitio.....	Straw .....	1 05
3	The L. Beckman Co.....	Engineer's supplies .....	8 50
4	H. W. Myers.....	Expenses as collector.....	4 25
5	The U. S. Telephone Co...	Telephone messages .....	2 20
6	Tod Trowbridge .....	Telephone rent .....	1 50
7	August Bolmer .....	Labor mowing weeds.....	14 00
8	S. Gallaspie .....	Labor mowing weeds.....	18 00
9	W. F. Smith.....	Labor mowing weeds.....	30 00
10	Wesley McDonald .....	Expense collecting boat tax, etc..	7 78
11	Frank Bennett .....	Expenses as foreman.....	3 65
12	J. R. Spencer.....	Keeping team, etc.....	26 80
13	S. E. Allmon.....	Keeping team etc.....	32 00
14	Wolford & Berry.....	Hardware .....	12 08
15	W. A. Kuhlman & Co.....	Hardware .....	96 72
16	W. A. Reynolds.....	Lumber .....	5 00
17	H. W. Meacham.....	Expenses as supt.....	68 65
18	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	684 48
	Pay roll No. 1.....	.....	260 67
	Pay roll No. 2.....	.....	405 50
	Total for month.....	.....	\$1,776 31
<i>September, 1906.</i>			
1	M. B. Gorman.....	Sewer pipe .....	\$42 40
2	F. M. Oakes.....	Sand .....	12 00
3	A. M. Minsel.....	Wall paper and lime.....	8 30
4	Miller Bros. ....	Rubber boots .....	11 50
5	Franklin Printing Co.....	Stationery .....	10 00
6	F. E. Jones.....	Cord wood .....	3 50
7	H. W. Myers.....	Cord wood .....	14 00
8	J. J. Carson.....	Straw and hauling.....	10 00
9	Joseph McGahan .....	Attending waste-gates .....	15 00
10	Stephen Thomas .....	Labor on canal banks at Otsego..	15 00
11	Joseph A. Claypool .....	Expenses as collector and rent....	21 16
12	D. H. Hancock.....	Expenses as collector and rent....	20 23
13	H. W. Myers.....	Expenses as collector.....	1 84
14	The U. S. Telephone Co...	Telephone messages .....	2 50
15	Toledo Home Tel. Co.....	Telephone rent .....	15 00
16	Central Union Tel. Co.....	Telephone rent and messages.....	13 45
17	Tod Trowbridge .....	Telephone rent .....	1 50
18	Wesley McDonald .....	Telephone rent and expenses ...	6 17
19	S. E. Allmon.....	Keeping team and expenses.....	31 01
20	J. R. Spencer.....	Keeping team and expenses.....	22 75
21	Frank Bennett .....	Expenses as foreman.....	8 22
22	Dunan & Koeper .....	Hardware .....	12 50
23	Herman Ricker & Sons....	Lumber .....	7 60
24	William Mackenbach .....	Lumber .....	13 82
25	J. T. Horine.....	Lumber .....	82 74
26	Cheney Lumber Co.....	Lumber .....	238 43

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
27	H. W. Meacham.....	Expenses as supt.....	54 80
28	C. E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	657 81
	Pay roll No. 1.....	.....	503 87
	Pay roll No. 2.....	.....	334 75
	Total for month.....	.....	\$2,206 85
<i>October, 1906.</i>			
1	The Defiance Mach Wks...	Castings, etc. ....	\$29 95
2	Harley & Whitaker.....	Bags .....	9 38
3	D. Armstrong .....	Linoleum .....	13 33
4	Schneider Bros. ....	Rent of engine, etc.....	37 00
5	Schneider Bros. ....	Centrifugal pump .....	175 00
6	Lewis Overle .....	Stone .....	69 40
7	Stollburg & Parks.....	Office desk .....	40 00
8	W. C. Holden.....	Services as veterinary.....	5 00
9	The Harley Shoe Store....	Rubber boots .....	5 00
10	R. H. Armstrong.....	Rubber boots .....	16 00
11	The U. S. Telephone Co...	Telephone messages .....	2 10
12	Tod Trowbridge .....	Telephone rent .....	1 50
13	Wesley McDonald .....	Telephone rent, etc.....	3 05
14	H. W. Myers.....	Expenses as collector.....	3 95
15	S. E. Allmon.....	Keeping team, etc.....	29 26
16	J. R. Spencer.....	Keeping team, etc.....	21 75
17	Frank Bennett .....	Expenses as foreman.....	7 53
18	Dunan & Koeper.....	Hardware .....	15 69
19	W. A. Kuhlman & Co.....	Hardware .....	35 53
20	Wm. Mackenbach .....	Lumber .....	13 76
21	Herman Ricker & Sons....	Lumber .....	28 36
22	H. W. Meacham.....	Expenses as supt. of repairs.....	57 80
23	F. W. Harms.....	Use of boat .....	24 00
24	E. G. King.....	Use of boat.....	53 32
25	C. E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	584 48
	Pay roll No. 1.....	.....	679 05
	Pay roll No. 2.....	.....	382 85
	Total for month.....	.....	\$2,358 04
<i>November, 1906.</i>			
1	Herman Ricker & Sons....	Sewer pipe .....	\$70 03
2	Schulien & Roth.....	Cement .....	29 06
3	E. E. Rower.....	Sand .....	13 84
4	H. W. Myers.....	Expenses as collector.....	7 39
5	The U. S. Telephone Co..	Telephone messages .....	50
6	Northern Ohio Tel. Co....	Telephone rent .....	6 30
7	Tod Trowbridge .....	Telephone rent .....	1 50
8	Wesley McDonald .....	Telephone rent, etc.....	3 55

ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
9	S. E. Allmon.....	Expenses as foreman and keeping team .....	24 25
10	J. R. Spencer.....	Expenses as foreman and keeping team .....	24 85
11	Frank Bennett .....	Expenses as foreman.....	3 40
12	George W. Weadock.....	Livery .....	55 00
13	J. W. McGovney.....	Livery .....	56 90
14	L. Archambeault .....	Blacksmithing .....	3 50
15	H. B. Tenzer Co.....	Lumber .....	7 43
16	Thiësen & Hildred.....	Lumber .....	327 63
17	H. W. Meacham.....	Expenses as supt. of repairs.....	53 05
18	Charles E. Perkins.....	Traveling expenses as chief engr.	15 00
	Pay roll of officers.....	.....	584 48
	Pay roll No. 1.....	.....	501 75
	Pay roll No. 2.....	.....	306 00
	Total for month.....	.....	\$2,095 41

ABSTRACT OF MONEY PAID.

By H. W. Meacham, Superintendent Sub-Division No. 3, Grand Division No. 3, Miami and Erie Canal, for Maintenance and Labor for Repairs at Grand Reservoir.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>March, 1906.</i>	
1	The Bellefontaine Stone Co.	Stone .....	\$30 64
	Pay roll No. 1.....	.....	13 50
	Total for month.....	.....	\$44 14
		<i>August, 1906.</i>	
1	William Hamm .....	Driving piling at bulk-head.....	\$108 00
2	William Swartz .....	Labor .....	6 00
3	Charles Marshall .....	Labor .....	1 50
4	Thomas Carper .....	Labor .....	1 50
5	John Hein .....	Livery used in tagging boats, etc.	15 50
	Total for month.....	.....	\$132 50



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>November, 1906.</i>	
	Pay roll No. 1.....	Labor on Grand Reservoir.....	\$137 75
	Total for month.....	.....	\$137 75

## ABSTRACT OF MONEY PAID.

By H. W. Meacham, Superintendent Sub-Division No. 3, Grand Division No. 3,  
Miami and Erie Canal, for Services and Expenses in the matter of the  
Dynamiting Case at St. Marys Reservoir.

No. of Voucher.	To Whom.	And For What Paid.	Amount.
		<i>March, 1906.</i>	
1	The Pinkerton Detective Agency .....	Services rendered .....	\$318 33
	Total for month.....	.....	\$318 33

ABSTRACT OF MONEY PAID.

Improvement Miami and Erie Canal, between Dayton and Cincinnati, as provided by an Act of the Seventy-Seventh General Assembly of Ohio, by James C. Wonders, Assistant Engineer.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
		<i>April, 1906.</i>	
1	Probst Furniture Arcade..	Office fixtures .....	\$12 68
2	Middletown Elec. Light Co.	Wiring office .....	11 77
3	Wm. Chestnut .....	Paper hanging .....	6 50
4	Conroy, Levy & Co.....	Office fixtures .....	20 61
5	Johnson & Co.....	Office supplies .....	66 30
6	Charles E. Denney.....	Repairing office .....	101 13
7	W. E. McElree.....	Personal expenses .....	6 10
8	James C. Wonders.....	Personal expenses .....	84 55
	Pay roll No. 1.....	.....	275 00
	Total for month.....	.....	\$584 64
		<i>May, 1906.</i>	
1	George D. Baker.....	Personal expenses .....	\$61 20
2	Joseph Schueller .....	Personal expenses .....	44 25
3	W. E. McElree.....	Personal expenses .....	59 45
4	H. C. Baldwin.....	Personal expenses .....	17 35
5	James C. Wonders.....	Personal expenses .....	105 15
6	Hatfield Coal Co.....	Coal for boarding boat.....	4 50
7	Charles E. Denny.....	Supplies for canal survey.....	21 43
8	Charles E. Denny.....	Supplies and repairs engineer's office .....	25 85
9	Probst Furniture Arcade...	Supplies and repairs engineers office and boarding boat.....	19 75
10	Johnson & Co.....	Supplies engineer's office.....	4 60
11	C. C. Fouts.....	Office and field party supplies....	10 15
12	Fred R. Smith.....	Livery .....	6 75
13	Chas. Glawe Mfg. Co.....	Awnings for engineer's office.....	17 00
14	William Sheedy .....	Supplies for boarding boat.....	15 80
15	The T. V. Howell & Son Co. ....	Supplies for boarding boat.....	11 40
16	The Middletown Electric Light and Power Co.....	Lighting engineer's office.....	75
17	The Toledo Blade Co.....	Publishing advertisement, sale of work .....	5 28
18	The Commercial Tribune Co. ....	Publishing advertisement sale of work .....	4 17
19	Ohio State Journal.....	Publishing advertisement sale of work .....	5 15
20	Dayton Daily News.....	Publishing advertisement sale of work .....	6 25
21	The Toledo Press.....	Publishing advertisement sale of work .....	6 65
22	Plain Dealer Publishing Co.	Publishing advertisement sale of work .....	6 03

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
23	The Columbus Press.....	Publishing advertisement sale of work .....	5 55
24	Enquirer Company .....	Publishing advertisement sale of work .....	5 71
	Pay roll No. 1.....	.....	802 76
	Total for month.....	.....	\$1,272 93
<i>June, 1906.</i>			
1	James C. Wonders.....	Personal expenses .....	\$117 20
2	George D. Baker.....	Personal expenses .....	30 20
3	W. E. McElree.....	Personal expenses .....	42 25
4	Joseph Schneller .....	Personal expenses .....	29 90
5	H. C. Baldwin.....	Personal expenses .....	63 40
6	The Middletown Electric Light & Power Co.....	Lighting asst. engrs. office.....	75
7	Johnson & Co.....	Supplies asst. engrs. office.....	33 12
8	John S. Spoerl.....	Supplies H. F. Eyler's boat.....	2 00
9	Charles E. Denny.....	Supplies for cross-sectioning party	5 00
10	Central Union Tel. Co.....	Messages over Ohio Boat Co.'s telephone .....	1 85
11	Fred R. Smith.....	Livery hire .....	10 00
12	Joseph Dietz .....	Personal expenses .....*	11 95
13	Ohio State Journal.....	Publishing sale notices.....	16 26
14	The Engineering News Pub Co. ....	Publishing sale notices.....	36 00
15	Plain Dealer Publishing Co.	Publishing sale notices.....	7 90
16	The Columbus Press.....	Publishing sale notices.....	9 87
17	Dayton Daily News.....	Publishing sale notices.....	10 00
18	The Defiance Express.....	Publishing sale notices.....	5 25
19	Leader Printing Co.....	Publishing sale notices.....	5 00
20	The Dayton Journal Co....	Publishing sale notices.....	5 63
21	The Crescent Pub. Co.....	Publishing sale notices.....	3 41
22	The Toledo Press.....	Publishing sale notices.....	10 40
23	The Toledo Newspaper Co.	Publishing sale notices.....	6 65
	Pay roll No. 1.....	.....	738 25
24	Lockland Lumber Co.....	3 poles 1 $\frac{3}{4}$ dia. 16'.....	3 00
25	F. W. Elberg.....	3 tons coal.....	9 75
26	William Sheedy .....	Travelling expenses, dredge crew.	22 42
27	John Mueller .....	5 tons coal.....	17 50
	Pay roll No. 2.....	.....	175 30
	Total for month.....	.....	\$1,433 21
<i>July, 1906.</i>			
1	James C. Wonders.....	Personal expense account.....	\$91 20
2	W. E. McElree.....	Personal expense account.....	56 40
3	George D. Baker.....	Personal expense account.....	66 65
4	Joseph Schneller .....	Personal expense account.....	68 85



ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
5	H. E. Baldwin.....	Personal expense account.....	60 30
6	Wm. Shuyler, Jr.....	Personal expense account.....	7 00
7	Johnson & Co.....	Supplies for engrs. office.....	23 55
8	C. C. Fouts.....	Supplies for surveying party.....	2 90
9	George Mitchell .....	Letter heads for engrs. office.....	5 95
10	The Middletown Elec. Light and Power Co.....	Lighting engrs. office.....	1 32
11	Anna Eldredge .....	Typewriting contracts, etc.....	8 65
12	Amer. Contractor Pub. Co.	Publishing sale notices.....	25 92
	Pay roll No. 1.....	.....	611 00
13	Treon & Cade.....	Supplies for state dredge boat....	1 75
14	William Sheedy .....	Supplies for state dredge boat....	2 80
15	William Sheedy .....	Supplies for state dredge boat....	4 00
16	Alfred L. Silberman.....	Supplies for state dredge boat....	2 00
17	Frank Shuey .....	Supplies for state dredge boat....	4 57
18	The Grove & Weber Co....	Coal for state dredge boat.....	38 60
19	Frank Shuey .....	Supplies for state dredge boat....	48 65
20	William Sheedy .....	Car fare for state dredge crew....	44 35
	Pay roll No. 2.....	.....	282 62
21	The Dayton Steam Boiler Works .....	Repairs to dredge No. 4.....	20 85
22	John M. O'Connor.....	Rent of canal boat.....	62 00
23	The Dayton Globe Iron Works Co. ....	Repairs to dredge No. 4.....	44 50
24	The Middleton News Co...	Publishing sale notices.....	8 75
	Total for month.....	.....	\$1,595 13
August, 1906.			
1	James C. Wonders.....	Personal expenses .....	\$96 60
2	George D. Baker.....	Personal expenses .....	50 55
3	W. E. McElree.....	Personal expenses .....	61 60
4	Joseph Schneller .....	Personal expenses .....	52 45
5	H. C. Baldwin.....	Personal expenses .....	49 50
6	Wm. Shuler, Jr.....	Personal expenses .....	3 05
7	The Middletown Elec. and Power Co. ....	For lighting engineer's office.....	1 56
8	Remington Typewriter Co..	Typewriter for engineer's office..	94 50
9	Johnson & Co.....	Supplies for engineer's office.....	13 80
10	The Dayton Daily News...	Advertising sale of work.....	4 00
11	The Commercial Tribune Co. ....	Advertising sale of work.....	3 46
12	The Toledo Newspaper Co.	Advertising sale of work.....	4 40
13	George Mitchell .....	Printing specifications, Miami Ri- ver Dam .....	16 50
14	The Engineering News Pub Co. ....	Advertising sale of work.....	16 20
15	The Enquirer Company.....	Advertising sale of work.....	7 42
16	Enquirer Company .....	Advertising sale of work.....	9 12
17	Enquirer Company .....	Advertising sale of work.....	4 66
18	The Cleveland Leader.....	Advertising sale of work.....	7 17

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom..	And For What Paid.	Amount.
19	Waverly News, Pike Co...	Advertising sale of work.....	9 75
20	The Shelby News.....	Advertising sale of work.....	5 50
21	Ohio State Journal.....	Advertising sale of work.....	4 12
22	C. C. Fouts.....	Supplies for engineer's office.....	5 80
23	Fred R. Smith.....	For hauling and horse hire, en- gineer's office .....	30 85
33	Plain Dealer Pub. Co.....	Advertising sale of work.....	4 90
41	The Cleveland Leader Co..	Advertising sale of work.....	4 30
	Pay roll No. 1.....	.....	610 75
	<i>Estimates.</i>		
1	The Atlas Portland Cement Co. ....	.....	425 00
2	W. J. Orr.....	.....	153 08
	The following expenses were incurred by Chas. Cooper, Supt. of Division No. 2:		
24	Village of Lockland, W. W. Dept. ....	Water for flushing Miami and Erie Canal .....	48 00
25	Lockland Lumber Co.....	Lumber for dam.....	20 90
26	The Grove & Weber Co...	Coal and supplies for dredge No. 4	38 79
27	Alfred L. Silberman.....	Supplies dredge No. 4.....	3 00
28	C. E. Ware.....	Supplies dredge No. 4.....	11 05
29	H. S. Conover.....	Supplies dredge No. 4.....	12 50
30	The Stacey Mfg. Co. ....	Supplies dredge No. 6.....	10 00
31	Treon & Cade.....	Supplies dredge No. 4.....	75
32	William Sheedy .....	Supplies and expenses.....	39 00
42	H. F. Eyler.....	Transportation .....	4 70
43	Frank Shuey .....	Supplies dredge No. 4.....	7 94
	Pay roll No. 2.....	.....	437 75
	Pay roll No. 3.....	.....	127 02
	The following expenses were incurred by John O'Connor, Supt. of Sub- division No. 2:		
34	S. T. & G. A. Gebhart.....	Bolts for canal scrapers.....	1 50
35	Dayton Livery Co.....	Livery for supt.....	4 00
36	Chas. H. Cook.....	Iron and labor making canal sra- pers .....	26 48
37	The John Rouzer Co.....	Labor for making canal scrapers..	53 85
38	Clem L. Kimmel.....	Rope and bolts in towing and making canal scrapers.....	213 14
39	Alexander Gebhart & Co...	Lumber for making scrapers.....	24 14
40	John M. O'Connor.....	Rent of canal boat for dredge No. 4 .....	54 00
	Pay roll No. 1.....	.....	629 00

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
	Pay roll No. 2.....	.....	465 00
	Pay roll No. 3.....	.....	342 50
	Pay roll No. 4.....	.....	1,595 00
	Total for month.....	.....	\$5,920 60
	<i>September, 1906.</i>		
1	James C. Wonders.....	Personal expenses .....	\$70 20
2	George D. Baker.....	Personal expenses .....	48 25
3	W. E. McElree.....	Personal expenses .....	66 00
4	Joseph Schneller .....	Personal expenses .....	57 55
5	H. C. Baldwin.....	Personal expenses .....	50 05
6	C. C. Fouts.....	Supplies for Miami River dam and engineer's office.....	15 83
7	The Amer. Contractor.....	Advertising proposals for Miami River Dam .....	8 10
8	The Dayton Journal Co....	Advertising proposals for Miami River Dam .....	4 00
9	The Columbus Press.....	Advertising proposals for Miami River Dam .....	4 52
10	The Middletown Electric Light & Power Co.....	Lighting engineers office.....	75
11	George Mitchell .....	Printing inspector's reports.....	4 25
12	Fred Smith .....	Livery and hauling lumber.....	19 95
13	Probst Furniture Co.....	Typewriter desk for engineer's office .....	27 00
14	Central Union Tel. Co.....	Telephone service for engrs. office.	2 50
15	A. Ritter .....	Lock gate irons, bands and bolts..	17 40
16	Johnson & Co.....	Supplies for engineer's office.....	5 15
	Pay roll No. 8.....	Engineer's office force.....	702 00
	<i>Estimates.</i>		
1	Frank Davis .....	Lesourdsville Aqueduct and Mid- dletown Lock .....	1,845 09
2	The Atlas Portland Cement Co. ....	Furnishing cement .....	1,602 25
17	Fred Smith .....	Livery .....	10 00
18	William Biehl .....	Coal for dredge No. 6.....	7 33
19	William Sheedy .....	Car fare .....	4 95
20	Jos. B. Blettner & Co.....	Supplies for dredge No. 6.....	21 00
21	H. F. Eyler.....	Car fare .....	15 00
22	The Southern Ohio Ex- press Co. ....	Express on scrapers.....	3 00
23	R. V. Denny.....	Car fare and use of boat.....	9 40
24	Frank Krehe .....	Coal for dredge No. 6.....	13 00
	Pay roll No. 6.....	.....	111 78
	Pay roll No. 7.....	.....	360 92
25	John M. O'Connor.....	Rent of canal boat.....	24 00
26	C. H. Cook.....	Iron for canal scrapers.....	50 11



## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
27	Alexander Gebhart & Co...	Lumber for flume and waste gates.	160 20
28	Miami Lumber and Veneer Co. ....	Lumber for flume and waste gates	98 52
29	The John Rouzer Co.....	Making canal scrapers and building flume .....	103 05
30	Clem L. Kimmel.....	Rope for towing canal scrapers..	69 96
31	S. T. & G. A. Gebhart.....	Bolts for canal scrapers.....	8 62
	Pay roll No. 1.....	John O'Connor's Division.....	1,103 50
	Pay roll No. 2.....	John O'Connor's Division.....	415 00
	Pay roll No. 3.....	John O'Connor's Division.....	540 50
	Pay roll No. 4.....	John O'Connor's Division.....	2,122 50
	Pay roll No. 5.....	John O'Connor's Division.....	637 00
	Total for month.....	.....	\$10,440 18
<i>October, 1906.</i>			
1	James C. Wonders.....	Personal expenses .....	\$88 50
2	George D. Baker.....	Personal expenses .....	60 15
3	W. E. McElree.....	Personal expenses .....	49 87
4	Joseph Schneller .....	Personal expenses .....	63 65
5	H. C. Baldwin.....	Personal expenses .....	65 20
6	Frank Davis .....	Extra work at Middletown lock..	60 58
7	C. C. Fouts.....	Supplies for carpenter shop.....	20 20
8	William Lambert .....	Assisting engineer survey Big Four encroachment .....	2 00
9	William Rindsberg .....	Inspector Sunfish Aqueduct.....	150 00
10	Chas. E. Denny.....	Material for dam at Middletown lock .....	40 86
11	Central Union Tel. Co.....	Telephone service for engineer's office .....	3 30
12	George Mitchell .....	Typewriter paper for engineers office .....	1 00
13	Herm. Pfister .....	Repairing Y level.....	3 50
14	Johnson & Co.....	Supplies for engineer's office.....	13 25
15	Fetzer & Co.....	Supplies for lockgate wicket.....	21 10
16	Fred R. Smith.....	Hauling lumber and livery.....	18 00
17	C. C. Fouts.....	Supplies, carpenter shop and engineer's office .....	4 80
18	Middletown Electric Light and Power Co. ....	Lighting engineer's office.....	75
	Pay roll No. 4.....	.....	670 00
<i>Estimates.</i>			
2	Frank Davis .....	Middletown and Amanda locks...	1,891 16
2	W. J. Orr.....	Lumber for lock gates and sheeting .....	402 88
3	The Atlas Portland Cement Co. ....	Furnishing cement .....	306 00
19	Chas. Laspe .....	Brick for Shepherds creek culvert.	5 60
20	J. Y. Jacobs.....	Teaming and pointing walls.....	9 00

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
21	Mahatcke & Newton.....	Sacks for dam.....	38 50
22	Fred R. Smith.....	Gravel for dam at Middletown lock .....	27 60
23	Fred R. Smith.....	Team work at Miamisburg aque- duct .....	30 00
24	C. E. Ware.....	Rubber hose .....	12 65
25	Miamisburg Lumber Co....	Lumber used at Miamisburg aque- duct .....	25 81
26	Henry Eyler .....	Car fare for men.....	9 25
27	Zeb Leis .....	Hauling cement and scooping gravel .....	25 50
28	Cin., Ham. & Dayton Ry...	Car service .....	4 00
29	H. C. Hoff.....	Comforts .....	5 00
	Pay roll No. 5.....	Chas. Cooper's Division.....	132 00
	Pay roll No. 6.....	.....	240 80
	Pay roll No. 7.....	.....	75 00
	Pay roll No. 8.....	.....	228 10
30	Charles A. Gump.....	Rubber boots .....	38 50
31	Alexander Gebhart & Co..	Lumber .....	103 03
32	Clem L. Kimmel.....	Nails, rope, etc.....	86 16
33	T. D. Eichelberger's Sons	Cement .....	7 60
34	The John Rouzer Co.....	Labor on flume.....	21 60
35	Michael Moran .....	Livery for Supt.....	17 50
36	Michael Moran .....	Livery for Supt.....	11 00
37	Lincoln Evans .....	Car fare for men.....	32 90
	Pay roll No. 1.....	John O'Connor's Division.....	1,738 50
	Pay roll No. 2.....	.....	869 00
	Pay roll No. 3.....	.....	1,866 25
	Total for month.....	.....	\$9,597 60
<i>November, 1906.</i>			
1	James C. Wonders.....	Personal expenses .....	\$74 45
2	George D. Baker.....	Personal expenses .....	38 10
3	W. E. McElree.....	Personal expenses .....	51 55
4	Joseph Schneller .....	Personal expenses .....	37 15
5	H. C. Baldwin.....	Personal expenses .....	49 00
6	George Mitchell .....	Pencil pads, engineer office.....	60
7	The Johnson Drug Co.....	Supplies, engineer's office.....	11 10
8	Ohio Natural Gas Fitting Co. ....	Gas stoves and fittings for engi- neers' office .....	27 60
9	Middletown Elec. L. & P. Co. ....	Lighting engineer's office.....	75
10	Central Union Tel Co.....	Telephone service for engr.'s office.	4 25
11	Middletown Gas and Elec. Light Co. ....	Heating engineers' office.....	90
12	Hatfield Coal Co.....	Coal for engineer's office.....	3 75
13	William Rindsberg .....	Inspector Lesourdsville aqueduct.	135 00
14	Geo. P. Gingerich.....	Driving test piles, Middletown dam .....	250 00

## ABSTRACT OF MONEY PAID—Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
15	Fetzer & Co.....	Pattern work on wicket gates....	10 00
16	Charles E. Denny.....	Lumber for Middletown lock gates .....	14 94
17	Charles E. Denny.....	Supplies, engineer's office and sur- veying party .....	11 75
18	The Frank M. Watkins Mnfg. Co. ....	Propeller for gasoline launch....	5 00
19	Sullivan Bros. ....	Livery .....	5 00
20	A. Ritter .....	Iron and blacksmith work for Middletown and Amanda locks.	93 84
21	E. B. Ford.....	Testing cement .....	17 50
22	Fred R. Smith.....	Hauling and livery .....	16 00
23	Cin., Hamilton and Dayton Ry. ....	Freight and car service, 2 cars cement, Amanda to Excello....	163 80
24	Frank Davis .....	Extra work, Amanda lock.....	56 30
25	The Stacey Mnfg. Co.....	Steel plates for lock gates.....	190 00
	Pay roll No. 1.....	.....	670 00
26	Fred R. Smith.....	auling for Middletown lock....	22 60
27	John Mueller .....	Coal for dredge No. 6.....	18 75
28	John Arpp .....	Pump and hose.....	14 00
29	J. A. Yingling's Sons.....	Use of pump Middletown lock....	12 55
30	Ralston Coal Co.....	Coal for pumping out Middletown lock .....	6 00
31	L. B. Cahill.....	Rubber boots at Middletown lock.	19 75
32	F. F. Pegg.....	Engine pumping out, Middletown lock .....	27 30
33	C. C. Fouts.....	Hardware for Middletown lock, etc. ....	60 92
34	Henry F. Eyler.....	Car fare, Sunfish aqueduct.....	7 20
	Pay roll No. 2.....	.....	432 68
	Pay roll No. 3.....	.....	57 50
	Work done by John O'Con- nor, Supt:		
	Pay roll No. 4.....	.....	\$481 00
35	Reno Runck .....	Assisting surveyor cross-section- ing canal .....	5 25
36	Bertha Young .....	Typewriting .....	50
37	Leo Veit .....	Flag poles .....	4 00
<i>Partial Estimates.</i>			
4	The Atlas Portland Cement Co. ....	.....	\$153 00
3	W. J. Orr.....	.....	167 56
3	Frank Davis .....	.....	1,090 38
	Total for month.....	.....	\$4,519 27



ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
		<i>November, -1906 — Supplemental.</i>	
1	John Snyder .....	Final Estimate — Substructure, Sunfish aqueduct, first and final estimate, amount due.....	\$1,112 81
1	Capitol Construction Co....	Superstructure, Sunfish aqueduct, first and final estimate, amount of estimate, \$2,485.00; deduct allowance by Board, \$1,500.00; amount due .....	985 00
		.....	<u>\$2,097 81</u>

ABSTRACT OF MONEY PAID.

Improvement Miami and Erie Canal, between Dayton and Toledo, as provided  
by an Act of the Seventy-Seventh General Assembly of Ohio, by J. C.  
Wonders, Assistant Engineer.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
		<i>May, 1906.</i>	
1	E. C. Baird .....	Services as engineer.....	\$33 20
2	Michael Moran .....	Livery .....	15 00
	Total .....	.....	<u>\$48 20</u>
		<i>May, 1906.</i>	
1	F. C. Kenthan.....	Services as engineer.....	\$2 50
2	H. W. Meacham.....	Services as engineer and prepar- ing plans .....	50 00
3	H. W. Meacham.....	Traveling expenses .....	19 05
	Total .....	.....	<u>\$71 55</u>

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
June, 1906.			
1	H. W. Meacham.....	Services as engineer, preparing plans and field work.....	\$60 00
2	H. W. Meacham.....	Expenses of engineer, preparing plans and field work.....	29 65
	Total .....	.....	\$89 65
July, 1906.			
1	The Dayton Journal Co....	Publishing notice of sale of work.	\$9 37
2	The Commercial Tribune Co. ....	Publishing notice of sale of work.	9 62
3	The Toledo Blade Co.....	Publishing notice of sale of work.	9 88
			\$28 87
	H. W. Meacham Division.		
4	H. W. Meacham.....	Services as engr., preparing plans.	\$40 00
5	H. W. Meacham.....	Expenses as engr., preparing plans.	26 30
6	The German American Pub. Co. ....	Publishing notice of sale of work.	8 90
7	The Blade Printing Co....	Publishing notice of sale of work.	8 12
8	The Republican Publishing Co. ....	Publishing notice of sale of work.	8 55
9	The Crescent Publishing Co.	Publishing notice of sale of work.	7 13
	Total .....	.....	\$127 87
August, 1906.			
1	H. W. Meacham.....	Personal expenses .....	\$19 55
2	H. W. Meacham.....	Services as engr.....	55 00
3	The L. Beckman Co.....	Making blue prints of plans.....	9 86
			\$84 41
	Pay roll No. 1.....	.....	297 63
	Total .....	.....	\$382 04
	The above expense was incurred by H. W. Meacham, Supt. of Div. No. 3.		
September, 1906.			
1	H. W. Meacham.....	Personal epenses .....	\$26 40
2	H. W. Meacham.....	Services as engr.....	50 00
3	F. G. Floyd.....	Livery .....	2 00
4	Lewis Overle .....	Assisting surveyors .....	3 50
5	M. B. Gorman.....	Sewer pipe .....	72 80

## ABSTRACT OF MONEY PAID — Continued.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
6	John Crowe .....	Services as inspector.....	48 00
7	James Kohn .....	Services as inspector.....	72 00
	<i>Estimates.</i>		
1	The Atlas Portland Cement Co. ....	Furnishing Portland cement.....	\$2,355 75
1	Schneider Bros. ....	Work on locks Nos. 36 and 37..	2,346 48
	Total for month.....		\$4,976 93
		<i>October, 1906.</i>	
1	H. W. Meacham.....	Services as engineer .....	\$55 00
2	H. W. Meacham.....	Personal expenses .....	35 10
3	W. A. Kuhlman & Co.....	Bar iron and machine work.....	95 63
4	John Blue .....	Services as engineer.....	5 00
5	Wesley McDonald .....	Services as inspector.....	116 00
6	James Kohn .....	Services as inspector.....	120 00
7	James Crowe .....	Services as inspector.....	120 00
	<i>Estimates.</i>		
2	Schneider Bros. ....	Locks Nos. 36 and 37, Defiance..	\$3,110 49
2	The Atlas Portland Cement Co. ....	Furnishing cement .....	1,749 15
	Total for month.....		\$5,406 37
		<i>November, 1906.</i>	
1	H. W. Meacham.....	Services as engineer.....	\$45 00
2	H. W. Meacham.....	Personal expenses .....	31 80
3	The Capitol Construction Co. ....	Iron for bridges, locks 14, 36 and 37 .....	240 88
4	L. Archambeault .....	Blacksmithing, locks 3, 6 and 37..	66 75
5	Geo. W. Weadock.....	Livery .....	49 50
6	Chas. Pohlman .....	Cement testing apparatus.....	1 20
7	John Crowe .....	Inspector Defiance locks .....	108 00
8	Wesley McDonald .....	Inspector Six Mile aqueduct.....	108 00
	Pay roll No. 1.....		210 23
	<i>Partial Estimates.</i>		
3	The Atlas Portland Cement Co. ....		\$1,521 00
3	Schnider Bros. ....		4,632 16
1	David Beard .....		2,411 10
	Total for month.....		\$9,425 62



ABSTRACT OF MONEY PAID — Concluded.

No. of Voucher or Estimate.	To Whom.	And For What Paid.	Amount.
1	J. N. Kissner..... Total for month.....	<i>November, 1906 — Supplemental.</i> First and final estimate for constructing a culvert in the village of Spencerville..... .....	 \$1,168 97 <hr/> \$1,168 97



# TONAGE STATISTICS

FOR THE

YEAR ENDING NOVEMBER 15, 1906.

(179)





## TONAGE STATISTICS.

## STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Cleveland on the Ohio & Erie Canal for the year Year ending November 15, 1906.

None. Navigation closed — Account of improvements.

Articles.	Arrived.	Cleared.
None. Navigation closed account of improvements.....	.....	.....

JAMES M. JONES, *Collector.*

## STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Akron on the Ohio Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
Coal (mineral) .....	5,848,000	3,260,000
<i>Tons</i> — Stone .....	15	.....

J. H. MORRISON, *Collector.*

## STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Massillon on the Ohio Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
<i>Barrels</i> — Lime and cement .....	15	15
<i>Bushels</i> — Coal .....	5,264,000	6,484,000
<i>Pounds</i> — Machinery .....	.....	12,000
Merchandise .....	10,000	8,000
<i>Number</i> — Barrels (empty) .....	190	190
<i>Feet</i> — Lumber .....	44,000	44,000

DAVID ATWATER, *Collector.*

STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Canal Dover on the Ohio Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
<i>Barrels —</i>		
Flour .....		155
Lime and cement .....		393
<i>Bushels —</i>		
Corn .....		737
Coal (mineral, lbs.) .....		8,076,000
Wheat .....		30,476
<i>Pounds —</i>		
Feed .....		24,000
Pottersware (tiling) .....		368,000
<i>Feet —</i>		
Lumber .....		46,900
<i>Cords —</i>		
Wood .....		236

M. S. HARVEY, *Collector.*

STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Roscoe on the Ohio Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
No freight .....		

August 28, 1906 — Wm. Hall, pleasure boat from May 1, 1906, to November 1, 1906, \$5.

October 30, 1906 — Leni Butles, pleasure boat permit from December 22, 1905, to December 22, 1906, \$10.

W. H. WILSON, *Collector.*

STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Newark and Carroll on the Ohio Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
No tonnage on this division on either of the Canal Ports .....		

W. H. KIRKENDALE, *Collector.*



## STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Circleville and  
and Columbus on the Ohio and Erie Canal, for the Year ending  
November 15th, 1906.

Articles.	Arrived.	Cleared.
No tonnage on this division at either of the ports named above .....	.....	.....

W. H. KIRKENDALE, *Collector.*

## STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Cincinnati on the  
Miami & Erie Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
<i>Barrels —</i>		
Beer .....	.....	52
Vinegar .....	10	120
Flour .....	1,370	33
Oil .....	32	235
Lime and cement .....	15	182
Whisky .....	80,836	7
<i>Bushels —</i>		
Corn .....	70	.....
<i>Pounds —</i>		
Acid and drugs.....	272,170	91,184
Baggage and furniture .....	23,840	32,270
Pitch .....	7,500	12,000
Cotton wadding .....	1,222,708	6,750
Fire clay .....	.....	3,600
Roofing slate .....	.....	21,600
Tar .....	14,500	11,000
Iron (pig or scrap).....	5,820	17,199
Iron (cast) .....	620,990	25,745
Ice .....	6,192,000	.....
Iron (bar) .....	270,836	458,503
Machinery .....	11,575	25,995
Merchandise .....	2,971,670	3,449,764
Pottersware .....	.....	14,350
Paper .....	5,673,620	105,468
Powder .....	.....	3,275
Rags and paper stock.....	35,171	7,223,711
Sand .....	88,010,000	.....
Sugar .....	.....	170,245
<i>Number —</i>		
Barrels (empty) .....	717	71,737
Fire brick .....	.....	9,271
Lath .....	.....	2,000
<i>Feet —</i>		
Lumber .....	98,218	205,540

FRED MAAG, *Collector.*

## STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Lockland, on the  
Miami & Erie Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
<i>Barrels —</i>		
Vinegar .....	22	1
Flour .....	2,032	1,458
Oil, all kinds.....	82	2
Lime and cement.....	693	37
Tar .....	10	31
Whisky .....	3	2
<i>Bushels —</i>		
Potatoes .....	105	.....
Corn .....		850
Oats .....		126
<i>Pounds —</i>		
Fireworks .....		476,015
Cotton .....	6,780	1,315,835
Baggage and furniture.....	1,500	9,870
Acid .....	8,994	270,953
Stoves .....		12,450
Fire clay .....	9,800	.....
Paint .....	4,000	.....
Rosin .....	15,200	208,901
Ice .....		6,140,000
Iron (pig or scrap).....		4,000
Iron (cast) .....	15,700	16,150
Iron (bar) .....	206,884	775,164
Machinery .....	6,875	1,350
Merchandise .....	2,342,057	791,590
Sewer pipe .....	2,200	1,550
Paper .....	55,310	6,026,199
Powder .....	3,295	.....
Rags and paper stock.....	8,431 119	43,600
Sugar .....	139,013	.....
Tallow .....		2,000
<i>Number —</i>		
Barrels (empty) all kinds.....	16,628	2,551
Fire brick .....	5,771	.....
Lath .....	2,500	.....
Shingles .....		5,000
<i>Feet —</i>		
Lumber .....	91,908	27,565
1 horse and 2 wagons.....		2,750

J. W. SULLIVAN, *Collector.*

STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Middletown on the Miami & Erie Canal, for the Year ending November 15, 1906.

COLLECTIONS.

Rents .....	\$5,589 65
Tolls .....	102 36
<hr/>	
Sent to State Treasurer .....	\$5,692 01
Rebates to H. J. R., No. 21.....	\$167 01

Articles.	Arrived.	Cleared.
<i>Pounds —</i>		
Brass and zinc.....	.....	3,947
Baggage and furniture.....	4,480	16,560
Acid .....	4,300	.....
Iron .....	61,885	49,704
Steel .....	.....	4,860
Lead .....	.....	1,365
Machinery .....	300	2,425
Merchandise .....	156,092	34,445
Paper .....	37,617	182,040
Paper stock .....	2,739	28,083
Paper bags .....	.....	852,500
Sugar .....	.....	6,389
Tar .....	.....	121,100
Sundries .....	.....	37,810
<i>Number —</i>		
Barrels (empty) .....	625	308
Carboys M. T.....	.....	23
<i>Feet —</i>		
Lumber .....	3,931	.....

E. C. BOOTH, *Collector.*

STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Dayton on the Miami & Erie Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
<i>Pounds —</i>		
Cement .....	.....	6,400
Jute .....	.....	5,000
Iron pipe .....	.....	800
Merchandise .....	.....	330,290
Paper, manufactured .....	.....	2,525,298
<i>Number —</i>		
Barrels (empty) .....	.....	2

ELMER WOMBOLD, *Collector.*



STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Piqua on the Miami & Erie Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
<i>Pounds —</i>		
Sand .....	.....	1,080,000
<i>Number —</i>		
Brick .....	.....	90,000
<i>Feet —</i>		
Lumber .....	.....	6,000
<i>Perches —</i>		
Stone .....	.....	72

F. C. DAVIES, *Collector.*

STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Delphos on the Miami & Erie Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
On account canal being out of repair and water being out for repairs, nothing arrived or cleared.....	.....	.....

JOS. A. CLAYPOOL, *Collector.*

STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Defiance on the Miami & Erie Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
<i>Barrels —</i>		
Ale and beer kegs.....		125.
Oil .....	11	
Lime and cement.....	212	
Salt .....	28	
<i>Pounds —</i>		
Baggage and furniture.....		150
Merchandise .....	160	
<i>Number —</i>		
Kegs (empty) .....		240.
Brick .....		175.
Lath .....	148	
Shingles .....	270	
<i>Cubic Feet —</i>		
Ship timber .....		12,000.
Lumber .....	120,000	240,000.
Timber (logs) .....	230,000	114,000.
<i>Cords —</i>		
Wood .....	116	218.

H. W. MEYERS, *Collector*

STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Napoleon, on the Miami & Erie Canal, for the Year ending November 15, 1906.

Articles.	Arrived.	Cleared.
<i>Barrels —</i>		
Flour .....		20.
<i>Pounds —</i>		
Hay .....		8,000.
Sand .....	176,820	303,120.
<i>Number —</i>		
R. R. ties .....		430.
<i>Feet —</i>		
Lumber .....	6,000	353,000.
Logs, cubic feet .....		40,000.
<i>Cords —</i>		
Wood .....		284.

D. H. HANCOCK, *Collector.*

## STATEMENT

Of the Tonnage of Articles Arrived and Cleared at the Port of Toledo on the Miami & Erie Canal, for the Year ending November 15, 1906.

	Arrived.	Cleared.
<i>Bushels —</i>		
Grain .....	7,500	.....
<i>Pounds —</i>		
Hay .....	28,000	.....
Merchandise .....		1,500
Plaster .....		40,000
<i>Number —</i>		
Barrels (empty) and cases.....	90	.....
Lath .....		5,000
Posts .....		50
<i>Feet —</i>		
Lumber .....	425,000	3,500
<i>Cords —</i>		
Wood .....	608	.....

CHAS. WITTICH, *Collector.*



REPORT  
OF THE  
Board of Public Works  
AND  
Chief Engineer of Public Works  
ON THE WORK OF  
Canal Land Department  
FOR THE  
Year Ending Nov. 15, 1906.  
(189)



OFFICE OF THE BOARD OF PUBLIC WORKS.

COLUMBUS, OHIO, November 15, 1906.

*To his Excellency, ANDREW L. HARRIS, Governor of Ohio.*

SIR:—I have the honor to transmit to you herewith the report of the Board of Public Works and the Chief Engineer of Public Works on the work of the Canal Land Department, for the fiscal year ending November 15th, 1906.

GEO. H. WATKINS,  
*President Board of Public Works.*



CANAL LAND DEPARTMENT.

By the provisions of Section 3 of the act of the General Assembly of Ohio, passed April 2nd, 1906, the duties heretofore performed by the Ohio Canal Commission, were transferred to and vested in the Board of Public Works.

In accordance with the provisions of this act, the Canal Commission formally transferred all books, records, documents, papers, surveys, maps, plats, furniture, and other property of the state in its possession, to the Board of Public Works on the 28th day of April, 1906.

As the work of determining the titles of state canal property is often quite difficult, it was determined wise to retain the working force that had assisted the Canal Commission in the work of that department.

While this work has increased the duties of the Board and Chief Engineer to a considerable extent, it has been carried on in a manner that is quite satisfactory, as the results show.

FINANCIAL STATEMENT.

The following statement shows the number and value of leases and sales made by the Board for the six and one-half months ending November 15th, 1906, also the number and value of leases and sales made by the Ohio Canal Commission for the preceding five and one-half months.

LAND LEASES BY THE BOARD OF PUBLIC WORKS.

Seven (7) land leases were granted on the Miami and Erie Canal at a	
Total valuation of .....	\$2,650 00
Sixty-seven land leases were granted on the Ohio Canal at a total val-	
uation of .....	20,957 00

LANDS SOLD BY THE BOARD OF PUBLIC WORKS.

Three tracts of land on the Ohio Canal were sold at a total valuation of	\$2,170 00
--	------------

LANDS LEASED BY THE CANAL COMMISSION.

Fifty-three leases were made by the Ohio Canal Commission prior to	
May 1, 1906, at a total valuation of.....	\$34,009 00
One sale of land was made by the Ohio Canal Commission (public	
auction) at a valuation of.....	1,980 00

RECAPITULATION.

Total value of lands leased by the Canal Commission and Board of	
Public Works for the year ending Nov. 15, 1906.....	\$57,616 00

## LANDS SOLD.

Total value of lands sold by the Canal Commission and Board of Public Works for the year ending Nov. 15, 1906.....	\$4,150 00
--	------------

## RECEIPTS FROM LEASES AND SALES.

Rentals were received from lands leased on the M. & E. Canal, including \$6,787.81 oil royalties, amounting to.....	\$26,830 03
Total collections from the Ohio Canal land leases amounted to.....	8,970 93

Total collections from land leases.....	\$35,800 96
Total receipts from land sales.....	4,150 00

Total receipts from rentals and sales.....	\$39,950 96
--	-------------

Quite a number of collections were made by the Canal Collectors too late to be reported before the close of the fiscal year on November 15, 1906, and the same will appear in our next report.

GEO. H. WATKINS,  
W. KIRTLEY, JR.,  
B. W. BALDWIN,  
*Board of Public Works.*

CHAS. E. PERKINS,  
*Chief Engineer Public Works.*

Columbus, Ohio, November 15, 1906.





Fifth Annual Report  
OF THE  
**PARK BOARD**  
(195)



FIFTH ANNUAL REPORT OF THE PARK BOARD.

HON. ANDREW L. HARRIS, *Governor of Ohio.*

SIR:—The Board of Public Works of Ohio and the Chief Engineer of Public Works, acting jointly as the “Park Board” pursuant to an act of the 75th General Assembly of Ohio, vide Laws of Ohio, Vol. 95, pp. 227, 283 et seq., providing that the said Joint Board shall make annual report to the Governor (to be included in the report of the State Board of Public Works) setting forth the action of said joint board on all matters pertaining to the management and control of all State reservoirs lakes and lands set apart for public parks and pleasure resorts, including a statement of all receipts and expenditures, have the honor to present herewith their fifth annual report for the fiscal year ending on the 15th day of November, 1906.

SECRETARY’S REPORT.

The Secretary’s report herewith filed, shows the following for the fiscal year ending November 15, 1906.

Balance on hand November 15th, 1905.....	\$2,804 87
Amount received from leases of state lands and fees on boats:—	
Buckeye Lake .....	\$4,233 24
Portage Lakes .....	1,069 00
Indian Lake .....	956 50
Celina Grand Reservoir .....	298 00
	<hr/> 6,556 74
Total .....	<hr/> \$9,361 61

EXPENDITURES.

Buckeye Lake .....	\$1,495 69
Portage Lakes .....	560 37
Indian Lake .....	200 00
Celina Grand Reservoir.....	145 15
	<hr/> \$2,401 21
Balance on hand November 15, 1906.....	<hr/> \$6,960 40

By an act of the 77th General Assembly, passed April 2, 1906, all monies collected from leases and boat licenses must be expended for improvements upon the Park from which it is collected.

During the past year the Park Board prepared and had printed in pamphlet form, 3000 copies of Rules and Regulations governing the navigation of the public parks, and distributed them among lessees and those operating boats upon the waters of the public parks of the State.

Respectfully submitted,

GEO. H. WATKINS,  
W. KIRTLEY, JR.,  
B. W. BALDWIN,  
*Board of Public Works of Ohio.*  
CHAS E. PERKINS,  
*Chief Engineer of Public Works.*

Columbus, Ohio, November 15, 1906.





*To the Honorable, the Board of Public Works of Ohio, and the Chief Engineer of Public Works:*

Acting jointly in the control and management of lakes, reservoirs and state lands dedicated to the use of the public for park and pleasure resort purposes:

GENTLEMEN:—I herewith present the fifth annual statement of the receipts and expenditures of your Honorable joint Board during the fiscal year ending on the 15th day of November, 1906.

Very respectfully yours,

W. E. THOMPSON, *Secretary.*

## FINANCIAL STATEMENT OF THE PARK BOARD.

## RECEIPTS.

To balance November 15 1905.....	\$2,804 87
To amount received from leases of state lands and fees on boats:—	
Buckeye Lake .....	\$4,233 24
Portage Lakes .....	1,069 00
Indian Lake .....	956 50
Celina Grand Reservoir .....	298 00
	<hr/>
	6,556 74
Total .....	\$9,361 61

## EXPENDITURES.

1905.			
Dec.	12.	John A. Spurgeon, police patrolman, salary.....	\$25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
		Chas. Savasool, police patrolman, salary.....	25 00
1906.			
Jan.	9.	John A. Spurgeon, police patrolman, salary:.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
		Chas. Savacool, police patrolman, salary.....	25 00
Feb.	13.	John A. Spurgeon, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
		Chas. Savacool, police patrolman, salary.....	25 00
		Harry R. Morris, repairs to Buckeye Lake.....	37 75
Mch.	13.	Harry R. Morris, repairs to Buckeye Lake.....	60 93
		John A. Spurgeon, police patrolman, salary.....	25 00
		Chas. Savacool, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
April	10.	John A. Spurgeon, expenses as police patrolman.....	3 80
		John A. Spurgeon, police patrolman, salary.....	25 00
		Chas. Savacool, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
May	8.	John A. Spurgeon, police patrolman, salary.....	25 00
		Chas. Savacool, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
		Harry R. Morris, repairs Buckeye Lake.....	51 75
June	12.	The M. C. Lilley Co., metal tags.....	60 00
		Harry R. Morris, repairs to Buckeye Lake.....	355 26
		John A. Spurgeon, police patrolman, salary.....	25 00
		Chas. Savacool, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
July	10.	John A. Spurgeon, police patrolman, salary.....	25 00
		Chas. Savacool, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
		Chas. Hatch, repairs to Portage Lakes.....	50 25
Aug.	14.	The M. C. Lilley Co., metal tags.....	12 65
		The M. C. Lilley Co., metal tags.....	4 00
		John A. Spurgeon, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
		Chas. Savacool, police patrolman, salary.....	25 00
		Chas. Hatch, repairs to Portage Lakes.....	64 75
		Bucher Engraving Co.....	4 20



Sept.	14.	Harry R. Morris, repairs to Buckeye Lake.....	239 26
		H. W. Meacham, repairs, Celina Grand Reservoir.....	132 50
		Chas. Hatch, repairs, Portage Lakes.....	116 37
		John A. Spurgeon, police patrolman, salary.....	25 00
		Chas. Savacool, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
Oct.	9.	John A. Spurgeon, police patrolman, salary.....	25 00
		Chas. Savacool, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
Nov.	13.	John A. Spurgeon, police patrolman, salary.....	25 00
		Chas. Savacool, police patrolman, salary.....	25 00
		A. O. T. Andrus, police patrolman, salary.....	15 00
		Harry R. Morris, repairs, Buckeye Lake.....	418 74
		Chas. Savacool, expenses as police patrolman.....	9 00
Total .....			\$2,401 21
Balance on hand November 15, 1906.....			6,960 40
Total .....			\$9,361 61

## RECAPITULATION.

John A. Spurgeon, salary as police patrolman and expenses.....	\$303 80
O. A. T. Andrus, salary as police patrolman.....	180 00
Chas. Savacool, salary as police patrolman and expenses.....	309 00
The M. C. Lilley Co., for metal tags.....	76 65
Harry R. Morris, repairs to Buckeye Lake.....	1,163 69
H. W. Meacham, repairs to Celina Grand Reservoir.....	132 50
Chas. Hatch, repairs to Portage Lakes.....	231 37
Bucher Engraving Co., for etchings.....	4 20
Total .....	\$2,401 21









ANNUAL REPORT

OF THE

ATTORNEY GENERAL

TO THE

GOVERNOR OF THE STATE OF OHIO

FOR THE

PERIOD FROM JANUARY 1, 1906, TO JANUARY 1, 1907





ATTORNEY GENERAL'S DEPARTMENT.

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WADE H. ELLIS..... *Attorney General.*  
W. H. MILLER..... *First Assistant Attorney General.*  
CHARLES P. HINE..... *Second Assistant Attorney General.*  
SMITH W. BENNETT..... *Special Counsel.*  
ROSCOE J. MAUCK..... *Special Counsel.*  
O. E. HARRISON..... *Special Counsel.*  
WM. R. MEDARIS..... *Special Counsel.*  
CLARENCE D. LAYLIN..... *Chief Clerk.*  
WM. SHEEHAN ..... *Clerk to Special Counsel.*  
C. K. CAREY..... *Stenographer.*  
M. G. CULTON..... *Stenographer.*  
RALPH McCANN ..... *Messenger.*

## ATTORNEYS GENERAL OF OHIO.

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HENRY STANBERRY .....	1846-1851
JOSEPH McCORMICK .....	1851-1852
GEORGE E. PUGH .....	1852-1854
GEORGE W. McCOOK .....	1854-1856
FRANCIS D. KIMBALL .....	1856-1857
C. P. WOLCOTT .....	1857-1861
JAMES MURRAY .....	1861-1863
LYMAN R. CRITCHFIELD .....	1863-1865
WILLIAM P. RICHARDSON .....	1865-
CHAUNCEY N. OLDS .....	1865-1866
WILLIAM H. WEST .....	1866-1870
FRANCIS B. POND .....	1870-1874
JOHN LITTLE .....	1874-1878
ISAIAH PILLARS .....	1878-1880
GEORGE K. NASH .....	1880-1883
D. A. HOLLINGSWORTH .....	1883-1884
JAMES LAWRENCE .....	1884-1886
JACOB KOHLER .....	1886-1888
DAVID K. WATSON .....	1888-1892
JOHN K. RICHARDS .....	1892-1896
F. S. MONNETT .....	1896-1900
J. M. SHEETS .....	1900-1904
WADE H. ELLIS .....	1904-

# ATTORNEY GENERAL'S REPORT.

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COLUMBUS, OHIO, January 1st, 1907.

HON. ANDREW L. HARRIS, *Governor of Ohio*.

SIR:—In accordance with the policy adopted by this department I submit herewith the annual report of the Attorney General for the calendar year 1906.

This report will contain:

- First:* A review of the work of the department for the past year, including the more important litigation conducted on behalf of the state;
- Second:* A table of all actions and prosecutions brought, pending or disposed of during the past year;
- Third:* A statement of all collections and disbursements for the year; and
- Fourth:* All official opinions rendered during the year.

This report will not contain any specific recommendations for legislative action, either in the amendment of existing laws or the enactment of new ones suggested by the experience of the last year's work. It is thought best to postpone such recommendations to a later date, or to include them in the next annual report, which will be issued about the time of meeting of the general assembly in January, 1908.

## I.

### IMPORTANT WORK OF THE YEAR.

A number of causes combined to greatly increase the work of this office during the year 1906.

**Biennial Elections; Amendment of the Constitution.**

The first and most important of these causes was the adoption by the people on November 7th, 1905, of an amendment to the constitution of Ohio, separating state and municipal elections, and providing that thereafter all state and county officers should be elected in the even numbered years and all other officers, such as municipal, township and school district, should be elected in the odd numbered years. Numerous questions at once arose as to the construction of this amendment, and later of the acts of the legislature passed in conformity therewith. One of the questions involved the effect of such amendment upon officers chosen on the same day that



the change in the constitution was adopted. The Governor was advised in issuing a commission to the probate judge-elect of Summit county, that such officer was entitled to a commission for three years only, that being the term provided by law at the time of his election, although the constitutional amendment adopted the same day made the probate judge's term four years. In an action in mandamus brought by the judge-elect against the Governor, in the supreme court, to compel the issuance of a commission for a four year term, this view was sustained. The case of *State ex rel. Pardee v. Pattison, Governor*, (73 O. S. 305) became authority not only for the proposition that terms of office existing at and before the adoption of the amendment were not changed thereby, but for the further proposition that the general assembly in exercising the powers conferred by the new constitutional amendment can extend existing terms only so far as is necessary to effect the purpose of said amendment; and the phrase "existing terms of office", as therein used, was construed to mean the terms of office as defined in the constitution and acts of the general assembly as the same existed at the time of the proposal of the amendment and its adoption.

**Statutes passed in Conformity with New Amendment.**

Upon the assembling of the legislature in January, 1906, the work of adapting existing terms of office to the new policy of the state as expressed in the constitutional amendment, was undertaken. The general assembly had been given power to extend existing terms insofar as such extension was necessary to effect the purpose of such amendment, and in obedience to this requirement the terms of many state and local officers were so extended. One of the results was to make the terms of the governor and other state officers elected in 1905, three years instead of two, in order to bring about the expiration of their terms in January, 1909, and to install at that time all state officers to be elected in November, 1908. It was necessary also to extend the terms of many county officers so as to bring about the expiration of the same at a time agreeable to the new constitutional amendment.

**Construction of such Statutes.**

Members of the general assembly, or committees having charge of these bills, were advised by this department that only such extensions could be made as were actually necessary to adapt the terms of office to the new amendment. In the preparation and passage of such bills, however, some confusion prevailed, and it became necessary in one instance to secure the construction by the supreme court of an act passed for this purpose.

In the case of *State ex rel. Attorney General v. Mulhern*, 74 O. S. 363, the supreme court construed the act of April 2d, 1906, entitled "An act to conform the terms of various state and county officers to the constitutional provisions for biennial elections," and held that the provision in such act requiring that the terms of office of county sommis-

sioners shall commence on the first day of December next after their election is in irreconcilable conflict with another provision which extends the terms of certain county commissioners to the third Monday in September of the odd numbered years next succeeding the time when they would otherwise expire, and as the last provision more nearly conforms to the policy and intent of the general assembly the first becomes inoperative. In this case the court repeated the statement that the general assembly in exercising its power to extend existing terms was restrained by the new amendment itself to what should be necessary to effect the purpose of such amendment.

Some other questions arising from this amendment remain unsettled, particularly those affecting the terms of county sheriffs and treasurers, and these must be answered either by new legislation or perhaps at last by a further judicial construction of the effect of the constitutional amendment.

**State and  
County Salary  
Laws.**

In obedience to a popular demand, and one grounded in the best ideals of good government, the last general assembly effected a further reform in the conduct of public offices by abolishing the fee system and substituting salaries for all state and county officers. This legislation also provoked many new questions. The compensation of nearly all officers, both state and county, was involved. In some instances the legislature in substituting salaries for fees had overlooked the necessity of making the required appropriations, and the emergency board was obliged to provide for the situation which arose. With respect to county officers, it further developed that no provision was made for the proper and legitimate expenses of the officers, and it appeared that the legislature intended that such officers, in some instances at least, should pay such expenses out of their salaries. This was especially true of the sheriffs, and the real intent of the general assembly should be made clear at the next session.

**Death of Gov-  
ernor Pattl-  
son**

The long illness of Governor John M. Pattison, beginning with his inauguration in January and ending with his death in June, not only drew the sympathy of all the people of the state, who had great faith in the high purposes of his administration, but was made the occasion of casting some doubt upon the validity of acts of the general assembly which the constitutional amendment of 1903 required to be submitted to the chief executive for approval or veto.

**Aikin Law  
Case.**

Among the more important measures passed by the last legislature was the so-called "Aikin law" increasing the annual saloon tax to one thousand dollars. A suit entitled Bernard Wrede v. Charles C. Richardson, Auditor of Hamilton county, was brought in the superior court at Cincinnati to test the validity of the Aikin law, and in this case counsel for the plaintiff con-



tended that the bill after its passage by the general assembly had never been presented to the Governor for his approval or rejection. There were other questions involved, but since this challenge affected not only the one measure but many other acts of the general assembly, the Attorney General participated in the case in support of the law. Much testimony by way of depositions had been taken. The attempt was made to prove that the Governor was too ill to receive the bill and that in fact it was never personally presented. The solicitors of Hamilton county conducted the case in the superior court and this department acted merely in assistance to them. Those defending the law contended that the one essential to a valid presentment to the Governor was an opportunity to examine the bill; that the burden was upon the plaintiff to show the want of such opportunity, and that the testimony did not support any such claim. It was further contended that parol evidence is not admissible in any case to show that a bill printed as a law by the Secretary of State was not, in fact, presented to the Governor; that the records in the Governor's office in this instance showed due presentment and that such records import absolute verity. The superior court in general term upheld the Aikin law and the plaintiffs prosecuted error to the supreme court where the case is now pending.

**Recess Appointments.**

A number of questions arose during the session of the general assembly, and some have been presented since, as to the status of appointments made by the Governor during the recess preceding the last session and not confirmed by the senate. A discussion of these will be found in the several opinions upon the subject printed elsewhere in this report. Of course the officers who failed of confirmation or whose names were rejected continue to serve until their successors are appointed and confirmed. But as to the power of the present Governor to renominate such officers and again send their names to the senate, that is a question that may hereafter arise, and is not considered in the opinions referred to.

**Various New Statutes Passed and Construed.**

In addition to the new legislation made necessary by the constitutional amendment inaugurating the policy of biennial elections, the state and county salary acts and the Aikin liquor tax, all of which produced more or less litigation, there were many important changes effected by the last legislature in the laws touching the conduct of public officers or concerning directly matters of state or local government. The laws relating to elections, taxation, schools, public buildings, fish and game, pure food, health, pharmacy, insurance and others were changed in many important respects.

The Longworth bond act, applying to all cities and villages was modified in an important particular, and the municipal code was amended by numerous acts. A great deal of legislation was passed affecting the departments of highway commissioner, mine inspector, and the board of



public works. The attorney general and the prosecuting attorneys of the state were given additional powers. The Brannock residence district local option law was radically amended by the so-called Jones law, abolishing the election feature and substituting a petition in its stead. The public depository laws were strengthened. A two cent fare bill was passed. Prison labor at the penitentiary was abolished, and many questions have resulted as to the status of existing contracts and the right to extend or renew the same. The department for the inspection of oils was completely re-organized. The juvenile court law was amended, and the statutes affecting the state educational institutions were changed in many respects. Acts were passed to establish a commission for the regulation of railroads, another to codify the statutes, another to represent the state at the Jamestown exposition, another to build an institution for the care of crippled children, and another for the erection of the Lima State Hospital for the Insane. This is a brief summary only of the more important work of the 77th general assembly.

**The New Railroad Commission.**

Of all the work of the last legislature perhaps the most important was the passage of an act establishing the railroad commission of Ohio. Certainly no other act indicated a more significant departure in public policy and certainly no other has given more general satisfaction. Of necessity it has added very greatly to the work of the attorney general. He is made counsel for the commission and represents them in all appeals to the courts from their orders, in all proceedings to enforce the same, and in all complaints made by them before the interstate commerce commission. The powers granted to this commission are very broad. Their full extent has not yet been realized or defined, and their judicious exercise cannot fail to result in incalculable benefit to all the people of the state.

**Actions for the Bureau of Uniform Accounting.**

On behalf of the bureau of inspection and supervision of public offices, popularly known as the bureau of uniform accounting, the attorney general has participated in a number of actions in which the rulings of that department were sought to be sustained. The cases of the City of Tiffin v. Griffith, et al., (74 O. S. 219) in which the contention was successfully made that the Longworth bond act does not apply to indebtedness created or assumed prior to the enactment thereof; City of Portsmouth v. Milstead, and same v. Baucus, submitted and under advisement in the supreme court, involving the right of mayors and chiefs of police to fees in state cases; City of Newark v. Bigbee, et al., pending in the circuit court of Licking county, in which it is claimed that under the municipal depository act city funds of which no award has been made because of an excess of such funds over the amount which is permitted to be deposited in the bank offering the highest rate of interest, must be awarded to other banks only after re-advertisement; and State ex rel. Auditor v.

Hynicka, Treas., (74 O. S. 504) in which was upheld the contention of the department that, under Section 1069, before the same was amended by the last general assembly, the graded percentage due county auditors upon the entire grand duplicate and the one per cent. of school fund moneys, must have been paid at the semi-annual settlements,—these are among the more important cases of this description.

**Actions for the  
State Board  
of Health.**

The state board of health has been energetic, as usual, in the performance of its important functions. It has been especially diligent in exercising the power given to it by the law (Sec. 409-25 R. S.) to prevent municipalities from introducing new sources of water supply until the same shall have received the approval of the board. This power has been vigorously contested in some instances, notably in the case of the City of Newark v. The American Light and Water Company, where it was upheld by the court upon a cross-petition filed by this department.

**Canal Damage  
Claims.**

Claims for damages alleged to have been caused by the negligence of the state's agents in the management of the Lewiston reservoir in July, 1904, were filed by Tobias Walters, and others, in 1905. The general assembly provided for the appointment of a special commission to hear these claims. It was believed that the claims were not well founded, or, at least, were grossly exaggerated, and at the hearing held in July, 1906, they were contested by this office. The aggregate amount claimed reached, approximately, \$20,000. The amount allowed was \$2,534. Attention is called to this proceeding here not because of the amount involved but because, since it could not be had in any of the regularly constituted courts of the state, it is omitted from the complete list of cases hereinafter set forth.

**Repeal of the  
Inheritance  
Tax.**

On April 2d, 1906, the general assembly passed an act designed to repeal the direct inheritance tax law of 1904. Section 1 of the repealing statute declared that the act entitled "An Act to impose a tax upon the right to succeed to or inherit property," etc., "be and the same is hereby repealed, except as to estates in which the inventory has already been filed at the date of the passage of this act." Two questions immediately presented themselves because of the peculiar language of the repealing statute. (1) Was the state, by virtue of Sec. 79 R. S., entitled to collect taxes from all the estates where the ancestor had died prior to the repeal of the act, and, if not, (2) was the state entitled to all taxes against such estates where an inventory had been filed prior to that day when the repealing act went into force? To determine these questions two actions were brought; *pro forma* judgments in favor of the state were rendered in the lower courts, and the questions are now pending upon error in the supreme court. Whatever the result, the public discussion of this subject since the adjournment of the general assembly seems to have demonstrated



the fact that if the revenues of the state demand it another direct inheritance tax law, so modified as to avoid the special hardships upon the small estates which characterized the last one, would meet public approval.

**A Case of Interest to The National Guard.**

The *habeas corpus* case entitled "In re. Welsh" in the common pleas court of Franklin county, tried during the year, involved a question of considerable interest to members of the Ohio National Guard. The decision of the court sustained the right of a police officer to arrest a member of the Guard failing to report for duty when his company was called into active service, upon a written order from the captain of the company although at the time no charges against the member so arrested had been filed.

**Suit to Oust the Canal Transportation Company.**

In the report of this department for the year 1905, mention was made of the pendency of an action of the State on relation of the Attorney General against The Miami and Erie Canal Transportation Company, to oust that corporation from its alleged unlawful occupancy of certain lands along the Miami and Erie canal and from its corporate franchise. It claimed the right to be there under an act of the general assembly passed April 25th, 1895, pursuant to which the board of public works on March 28th, 1900, entered into a contract with Thomas N. Forgyce, authorizing him, or his assigns, to experiment with electricity as a motive power for the propulsion of boats on the state water way, between certain points. The contract contained a clause that if the lessee was prevented by litigation from completing the work, the time occupied by such litigation should not run against him as a part of the period within which the necessary plant and road were to be constructed and equipped. Subsequent to the making of the contract an attempt was made by the board of public works to extend the same, but the then Governor, Mr. Herrick, and the Attorney General refused to approve the extension contract, and subsequently a suit was brought by this office to oust the company from state property. A great deal of delay has been experienced in bringing this case to trial, as will more particularly appear from the pleadings and the proceedings now in progress. During the past year, however, the issues have been made up and it is hoped that the case will be disposed of before the next meeting of the general assembly.

**The Hocking Valley Ouster Case.**

The issues in the case of the State ex rel. Attorney General v. The Hocking Valley Ry. Co., have been fully outlined in previous reports. The proceeding is in the circuit court of Franklin county to oust the railway company from its corporate franchise upon charges of unlawful purchase and ownership of shares of stock in other companies, and of unlawful discrimination between shippers. It is expected that this case will be disposed of within the coming year.



In line with the ouster suit against the Hocking Valley Railway steps were taken by this department to prevent the consolidation of the Hocking Valley Company with the Kanawha and Michigan Railway Company, which in August, 1906, had been advertised to take place upon the necessary approval of the stockholders of the companies. The ground of the State's objection was the same as that interposed to the ownership by the Hocking Valley Company of the stock of the Kanawha and Michigan Company — that is to say, that they were parallel and competing lines and their merger was forbidden by the statutes and public policy of Ohio. Promoters of the plan were notified of the objection by the State and the Secretary of State was requested to decline to receive, file or issue any certificate or other instrument that might be offered evidencing such proposed consolidation. No further action was taken for the reason that the consolidation was thereafter postponed and has not as yet been consummated.

**The Bridge  
Trust Dis-  
solved.**

During the latter part of the year 1905 the attention of this department was called to the existence of a combination among the various foreign and domestic corporations engaged in the construction of public bridges in Ohio, the purpose of which was to prevent competition, increase the price of such structures and divide among the parties to the conspiracy the enormous profits procured by methods unlawful and unconscionable. Sufficient facts were learned to justify an action in *quo warranto* to forfeit the charters of all the corporations believed to be participants in the combine and, on January 19th, 1906, this office filed a suit on behalf of the State in the circuit court of Logan county against the following named corporations:

The King Bridge Company,  
The Canton Bridge Company,  
The Massillon Bridge Company,  
The Bracket Bridge Company,  
The Champion Bridge Company,  
The Columbus Bridge Company,  
The Bellefontaine Bridge and Iron Company,  
The Variety Iron Works Company,  
The Adams Brothers Company,  
The Mount Vernon Bridge Company,  
The Iron Substructure Company,  
The Penn Bridge Company,  
The American Bridge Company.

Practically all the dilatory pleas known to the practice of the law were encountered in the prosecution of the State's case, the most important of which was the then untried question whether or not, under the Valentine-Stewart anti-trust act, several defendant corporations could

be joined in one action in *quo warranto*. The circuit court sustained the petition on March 23d in an exhaustive opinion reported at the time in the law periodicals of the state. While no question existed of the guilt of practically all the above mentioned defendants it appeared to be almost impossible to secure any evidence of that fact for the reason that all those having direct knowledge of the existence of the trust relied upon their constitutional right to refuse to give testimony against themselves.

**Enactment  
of the  
Dever Law.**

This remarkable situation, protecting the guilty parties to one of the boldest and most far-reaching conspiracies against honest competition in business that was ever organized in any state, led to the preparation and passage of the so-called Dever law introduced into the general assembly by Judge Dever, of Scioto county, and enacted April 2d, 1906, by which it was designed to require the giving of testimony by those violating the anti-trust act even though such testimony tended to incriminate the witness, provided the witness was given immunity from prosecution. The immunity clause of the inter-state commerce commission act was taken as a model, but the rights of the public were safe-guarded by preventing indiscriminate immunity by prosecuting officers, and the act can be employed by the attorney general and prosecuting attorneys only after the court in which the anti-trust suit is pending, has determined the propriety of such immunity and entered upon its journal a finding to that effect. In the bridge cases the State promptly availed itself of the increased powers afforded by the Dever law and secured from the circuit court an order requiring two employes of the Adams Bros. Co., one of the defendants, to testify and to produce books and papers relative to the issues joined. The testimony thus secured showed the origin and operation of a pool upon various bridges participated in by all the defendants mentioned, excepting the American Bridge Company. There were produced endorsed drafts and receipts evidencing the distribution of the moneys unlawfully extorted by reason of such pools. Upon the presentation of this testimony to the court a judgment of ouster was rendered against each of the companies above named, excepting the American Bridge Co., and trustees were appointed to take charge of and dispose of all the properties of such corporations and to account therefor to the court. This judgment put an end to the combination, and there is at present no evidence of any attempted re-organization, either among those involved in the conspiracy or others engaged in the same business.

**The Grocers'  
Trust Dis-  
solved.**

Early in the year complaints reached this office of the operation of a combination in restraint of trade by a number of wholesale grocers and jobbers of the state. A corporation had been formed styled "The Ohio Wholesale Grocers' Association Company" for the professed purpose of buying and selling or exchanging merchandise on commission and for profit, and for



the advancement of the interests of the grocery and jobbing trade. It was charged, however, that the company had never bought, sold or exchanged any merchandise whatever, but that the real object of the organization was to prevent competition in the purchase and sale of merchandise, and especially to fix at certain standard figures the prices of staple articles or produce usually dealt in by the grocery trade. A full investigation was made of the charges, and as a result an action was brought in March to forfeit the charter of the company upon the ground that it was violating the anti-trust law of the state. Issue was joined and in June the circuit court of Franklin county rendered a judgment of ouster, finding that the organization ever since its incorporation had been guilty of a wilful non-user of its corporate franchises and powers, dissolving the corporation and appointing trustees to wind up its business and settle its affairs. The trustees so appointed have concluded their work, made their report to the court and the corporation is dissolved.

**Standard Oil  
Litigation.**

The policy of this office with respect to the violation of our anti-trust statute by the various corporations operating in Ohio and owned and controlled by the Standard Oil Company of New Jersey, is well known. There is no desire to drive this industry from the state or to destroy investments in the oil fields. The purpose is to keep such companies in the state and see to it that they obey the laws of the state. It is believed that such corporations as the Standard Oil Company of Ohio, the Solar Refining Company, the Buckeye Pipe Line Company, and the Ohio Oil Company, all Ohio corporations, and all owned by the parent trust in New Jersey, are without power to permit their stock to be owned and voted and their corporate franchises controlled by a foreign corporation in the interest of a combination to monopolize the business of producing, transporting, refining and selling oil. So it is believed further that the Standard Oil Company of New Jersey cannot, in Ohio, monopolize and control this business by operating under the assumed names of other corporations. All the litigation now pending, or which hereafter may be brought, against any of these corporations is designed merely to break up this illegal method of doing business and to produce a condition of affairs by which all the Ohio companies engaged in any and all branches of the oil industry shall be separated from the trust, to the end either that such corporations professing in name to be independent, shall be independent in fact, or that the Standard Oil Company of New Jersey, if it desires to do business in Ohio, shall do such business in its own name and not through the use of concealed weapons intended to destroy legitimate competitors.

**Withdrawal  
from the State  
of Certain Oil  
Companies.**

Almost as soon as the recent investigations of the oil business were begun by the State, and very early after the litigation was started, certain oil companies generally known to be mere decoys in the trade and owned by the



New Jersey trust, voluntarily withdrew from Ohio. Among these were the Vacuum Oil Company, the Republic Oil Company and the Standard Oil Company of Kentucky. These companies all appeared to be used merely to stifle competition in the various branches of the trade, although as to two of them, at least, their managers, as well as the officials of the parent trust, continuously denied their ownership or control by the New Jersey corporation. The Republic Oil Company was used in the northern part of the state as a professed independent concern, to destroy competition in the marketing of refined oil, the Standard Oil Company of Kentucky was used for the same purpose in the southern part of the state, while the Vacuum Oil Company, pretending to be independent of the trust, operated as a gathering line for crude petroleum in the eastern Ohio fields, just as the Manhattan Oil Company, also alleged to be independent, but in fact controlled by the trust, still operates in the western fields of Ohio. The withdrawal of these companies, while not sought by the state, was the result of the state's action, either begun or announced, and served not only to clarify the general situation but established beyond question the methods and practices of the trust.

**Character of  
Pending Suits  
Against Oil  
Companies.**

The chief of the companies, subsidiary to the oil trust, still operating in Ohio, are The Standard Oil Company of Ohio, the Solar Refining Company, the Buckeye Pipe Line Company, the Ohio Oil Company, and the Manhattan Oil Company, all Ohio corporations, as well as the Union Tank Line Company, a foreign corporation. There are a number of others less known, but these mentioned do the bulk of the business. It is with these companies chiefly that any litigation by the State, pending or proposed, has to do. Among the actions already brought, and tried or pending, in which this office has been or is engaged, the most important are the suits in *quo warranto* in the circuit court at Lima against the Solar Refining Company, the Buckeye Pipe Line Company and the Ohio Oil Company to oust them from allowing the Standard Oil Company of New Jersey to own and vote their stock and thereby control them; the criminal action at Findlay, begun by the vigilant prosecuting attorney of Hancock county, in which the Standard Oil Company of Ohio was convicted by a jury of violating the anti-trust act of the state, and the mandamus suit in the circuit court at Findlay to require the Buckeye Pipe Line Company to perform its duties as a common carrier by furnishing equal transportation facilities to independent operators and establishing a reasonable rate for the indiscriminate use of its lines by all who offer the oil for such transportation.

The Lima suits, if successful, will effectually separate the Ohio companies from the trust. The criminal action at Findlay is now pending in the upper courts, and it may be remarked that while proceedings of this character are effective in a punitive sense, the results to be attained

in general benefit to the independent trade and in securing open, fair and honest competition by the dissolution of the trust, are more certain of achievement through the civil actions. A fine assessed against a corporation, which is always ultimately paid by the consumers of the product, or the imprisonment of individual managers who are acting under the orders of superiors and are seldom guilty of instigating the oppressive methods which corrupt and dishonor the business, may sometimes be the readiest and most available, if not the only, remedy to invoke; but it can never be as effective as the final edict of the state, speaking through its highest judicial authority, forbidding the doing of any business whatever by the offending corporation unless it respects and obeys the law. Perhaps the contrary would be true if it were always practicable to secure jurisdiction of and actually imprison the individuals morally as well as legally guilty by oppressive conspiracies against trade.

**Pipe Lines as  
Common  
Carriers.**

Aside from the *quo warranto* actions at Lima, already referred to, the most important Standard Oil case pending is that against the Buckeye Pipe Line Company to require it to perform its obligations as a common carrier. This last action was begun in November, 1906, in the circuit court of Hancock county. It charges that the Buckeye Pipe Line Company, organized under the laws of Ohio with a capital stock of \$10,000,000, is empowered to transport and store petroleum by means of pipes laid underground, and otherwise, and tanks erected upon the surface; that the defendant is a common carrier of oil with authority to exercise all the rights and owing all the public duties incident to this public franchise, but that it has neglected and refused to give to the independent refining interests of the state the same transportation facilities which it has afforded to the refining interests belonging to the Standard Oil Trust, and that it has never fixed or published a schedule of pipeage or transportation rates for the benefit indiscriminately of all who offer oil for transportation. If this suit results in a judgment favorable to the State, it is believed that one of the greatest evils in the oil monopoly, as well as one of the strongest instruments in the hands of the trust, will be destroyed. The present growth and power of the Standard Oil conspiracy rests primarily on favoritism in transportation, in one form or another, and the great pipe line system furnishing such transportation to the trust interests only is an advantage equal to, if not superior to, all others. If these pipe lines which are common carriers under the laws of Ohio, and ought to be everywhere, can be required to perform their duties as such, a long step will have been taken in the direction of equal opportunity for all in the business of producing, refining and marketing oil.

**Delinquent  
Tax Collec-  
tions.**

Attention was called in the last annual report to the fact that the organization of this department had enabled the Attorney General to collect fees from corporations



delinquent under the Willis law, in an amount exceeding the total appropriation for the maintenance of the office. Such collections have, in fact, so grown that they now constitute about one-tenth of the total revenues of the state derived from the Willis law. These collections are to be found in the detailed report. For the year 1905, the total was \$48,295.57, while for 1906, it was \$70,325.05 and the claims already certified promise to increase such collections in practically the same ratio for the year 1907. If some central authority were provided for the collection of all delinquent taxes under the various laws, through the operation of which the state secures the bulk of its revenues, and a method devised of investigating all such sources of revenue and pursuing the state's claims through the law department, it is confidently believed that the increase now derived from the special excise and privilege taxes would be enormously increased.

In concluding this report it is a pleasure to acknowledge the fidelity of the assistants, special counsel and office force in this department, as well as the cordial co-operation of other state officers, and prosecuting attorneys, in facilitating the law work of the state.

Respectfully submitted,

WADE H. ELLIS,  
*Attorney General.*





Cases Pending or Disposed of, Detailed  
Report of the Attorney General and  
Opinions of the Attorney General from  
January 1, 1906, to December 31, 1906.





## II.

CASES PENDING OR DISPOSED OF FROM JANUARY 1, 1906, TO  
JANUARY 1, 1907.

## I. Cases Pending in the Supreme Court January 1, 1907.

No. 6782.

State of Ohio ex rel. Attorney General v. The Crescent Savings &  
Loan Company, of Toledo, O.

August 16, 1899, petition filed.

No. 7682.

State of Ohio ex rel. Attorney General v. The Guarantee Savings &  
Loan Company, Cleveland.

August 8, 1901, petition filed.

No. 7708.

State of Ohio ex rel. Attorney General v. The Northern Ohio Build-  
ing & Loan Company.

August 29, 1901, petition filed.

No. 7822.

State of Ohio ex rel. Attorney General v. The Imperial Savings Com-  
pany, of Toledo, O.

January 6, 1902, petition filed.

No. 10006.

State of Ohio v. Roswell P. Shafer.

March 22, 1906, petition in error to circuit court of Putnam  
County filed.

No. 10021.

Edward W. Bryant v. The American Bonding Company, of Balti-  
more.

March 27, 1906, petition in error to circuit court of Wood County  
filed.

No. 10126.

Alice Levy Friend v. Julie Levy et al.

May 19, 1906, petition in error to circuit court of Hamilton County filed.

No. 10127.

Ida May Bing v. Samuel Bing et al.

May 19, 1906, petition in error to circuit court of Hamilton County filed.

No. 10152.

The City of Portsmouth v. Creed Milstead.

June 6, 1906, petition in error to circuit court of Scioto County filed.

No. 10153.

The City of Portsmouth v. James A. Baucus.

June 6, 1906, petition in error to circuit court of Scioto County filed.

No. 10429.

State of Ohio ex rel. Attorney General v. James P. Madigan.

December 17, 1906, petition in quo warranto filed.

**II. Cases Disposed of in the Supreme Court from January 1, 1906, to  
January 1, 1907.**

No. 9749.

**State of Ohio ex rel. Attorney General v. The Ohio Fire Insurance  
Association.**

October 16, 1905, petition in error to circuit court of Hamilton  
County filed.

May 8, 1906, judgment affirmed.

No. 9845.

**State of Ohio ex rel. Eugene L. Lewis v. Rudolph K. Hynicka, Treas-  
urer, et al.**

January 2, 1906, petition in mandamus filed.

May 15, 1906, demurrer sustained and petition dismissed.

No. 9868.

**State of Ohio ex rel. William E. Pardee v. John M. Pattison, Gover-  
nor et al.**

January 10, 1906, petition in mandamus filed.

February 2, 1906, demurrer sustained and petition dismissed.

No. 9836.

**State of Ohio ex rel. John Moeller v. Fred H. Tynes, Auditor.**

December 25, 1905, petition in error to circuit court of Scioto  
County filed.

May 8, 1906, judgment affirmed.

No. 9743.

**The City of Tiffin et al. v. Wellington J. Griffith et al.**

October 11, 1905, petition in error to circuit court of Seneca  
County filed.

May 1, 1906, judgment of circuit court reversed and that of com-  
mon pleas court affirmed.

No. 9812.

**State of Ohio v. George Osmond.**

December 6, 1905, petition in error to circuit court of Mahoning  
County filed.

October 9, 1906, judgment affirmed.



No. 9977.

Ira Bailus v. Orin B. Gould, Warden.

March 2, 1906, petition in error to circuit court of Franklin County filed.

March 13, 1906, judgment affirmed.

No. 10086.

State of Ohio ex rel. Attorney General v. George C. Mulhern, Sheriff, etc.

April 25, 1906, petition in mandamus filed.

June 26, 1906, demurrer to answer sustained and peremptory writ allowed.

No. 10092.

State of Ohio ex rel. The Robertson Realty Company, a corporation, etc. v. Walter D. Guilbert, Auditor, etc.

April 27, 1906, petition in mandamus filed.

October 16, 1906, demurrer sustained, petition dismissed.

No. 10140.

State of Ohio v. W. P. Bowers.

May 29, 1906, petition in error to circuit court of Ross County filed.

October 2, 1906, motion for leave to extend time for filing printed record overruled.

No. 10382.

State of Ohio ex rel. Isaac M. Jordan v. John Rolsen et al.

October 24, 1906, petition in mandamus filed.

October 30, 1906, petition dismissed.

**Cases Pending or Disposed of in Circuit Courts from January 1, 1906, to  
January 1, 1907.**

*Allen County.*

No. 520.

State of Ohio ex rel. Attorney General v. The Solar Refining Company.

Quo warranto. Answer filed December 26, 1906. Pending.

No. 521.

State of Ohio ex rel. Attorney General v. The Buckeye Pipe Line Company.

Quo warranto. Answer filed December 26, 1906. Pending.

No. 522.

State of Ohio ex rel. Attorney General v. The Ohio Oil Company.

Quo warranto. Answer filed December 26, 1906. Pending.

*Ashland County.*

No. 375.

J. R. Hissem, as Executor, etc. v. David C. Stacher.

Appeal of The Ohio Soldiers and Sailors Orphans' Home from decree of common pleas court in proceeding to construe will. Answer filed March 3, 1906. Pending.

*Delaware County.*

No. 360.

W. Z. Evans v. State of Ohio.

Petition in error filed. Pending.

*Cuyahoga County.*

No. 3847.

State of Ohio ex rel. Attorney General, v. The Indemnity Savings and Loan Co.

October 13, 1905, quo warranto, W. E. Guerin and J. R. Krauss, trustees.

May 7, 1906, order of sale.

No. 3603.

State of Ohio ex rel. Attorney General, v. The Van Dorn Iron Works Company.

Quo warranto. Answer filed June 6, 1906. Pending.

*Fayette County*

No. 531.

H. D. Chaffin, Auditor, etc., v. State of Ohio ex rel. James A. McLain.

Petition in error filed. Pending.

*Franklin County.*

No. 2059.

State of Ohio ex rel. Attorney General, v. The Harrison Mutual Burial Association.

Dismissed.

No. 2087.

State of Ohio ex rel. Attorney General, v. The Hocking Valley Railway Company.

Quo warranto. Issues made up and case submitted September term, 1906. Pending.

No. 2136.

State of Ohio v. S. L. Douglass.

Petition in error dismissed. Mandate issued October 8, 1906.

No. 2140.

State of Ohio ex rel. Attorney General, v. The A. Booth & Company.

September 24, 1906, reply filed. Pending.

No. 2363.

State of Ohio ex rel. Attorney General, v. The Miami & Erie Canal Transportation Company.

September 18, 1906, replies filed to all answers. Pending.

No. 2400.

John R. Cuppy v. Orin B. Gould, Warden, etc.

Error to common pleas court.

Dismissed.



No. 2937.

Ira Bailus v. Orin B. Gould, Warden, etc.

March 1, 1906, judgment of common pleas court affirmed.  
See list of cases disposed of in supreme court.

No. 2398.

State of Ohio ex rel. The Bankers' Identification Company v. Lewis C. Laylin, Secretary of State, etc.

Mandamus. February 22, 1906, petition filed. March 26, 1906, judgment on demurrer for plaintiff.

No. 2257.

State of Ohio v. The Toledo & Ohio Central Railway Company.

Appeal from decree of injunction issued by common pleas court. April 26, 1906, final entry agreed upon. Dismissed at costs of defendant

No. 2406.

State of Ohio ex rel. Attorney General v. The Ohio Wholesale Grocers' Association Company.

Quo warranto. April 11, 1906, judgment of ouster. Trustees appointed.

Disposed of.

*Hamilton County.*

No. 4221.

George Diersing v. State of Ohio.

Error to common pleas court. Pending.

No. 4351.

State of Ohio v. Effie Root.

Error to common pleas court. Pending.

No. 4352.

State of Ohio v. Frederick W. Steuver.

Error to common pleas court. Pending.

No. 4353.

State of Ohio v. Frederick Schlicht.

Error to common pleas court. Pending.

No. 4354.

State of Ohio v. George Gaiser.

Error to common pleas court. Pending.

No. 4355.

State of Ohio v. Hy Hippe.

Error to common pleas court. Pending.

No. 4367.

State of Ohio v. Katherine C. Markus.

Error to common pleas court. Pending.

No. 4368.

State of Ohio v. Joseph Schoellmoeller.

Error to common pleas court. Pending.

*Hancock County.*

No. 1173.

State of Ohio ex rel. Attorney General v. The Buckeye Pipe Line Company.

Mandamus. November 22, 1906, petition filed and alternative writ allowed. Motion to strike out, December 11, 1906.

No.

State of Ohio v. The Standard Oil Company.

Error to common pleas court. December 28, 1906, notice of filing of petition in error given.

*Lake County.*

No. 290.

Thomas B. Walker v. State of Ohio.

Error to common pleas court. February 16, 1906, judgment reversed.

*Licking County.*

No. 864.

City of Newark, Etc., v. Royal A. Bigbee, as Treasurer, Etc., et al.

May 21, 1906, notice of appeal from decree of common pleas court dismissing petition of relator and appeal bond filed. Pending.

*Logan County.*

No. 405.

State of Ohio ex rel. Attorney General v. The King Bridge Company et al.

Quo warranto. January 19, 1906, petition filed. October 9 to 27, trustees for several defendants appointed and qualified.

*Lucas County.*

No. 1974.

State of Ohio ex rel. Attorney General v. The Colonial Insurance Union.

Quo warranto. December 23, 1905, petition filed. Pending.

*Ottawa County.*

No. 262.

State of Ohio v. Louisa Hanlon.

Error to common pleas court. Petition in error filed October 25, 1906. Pending.

*Ross County.*

No. 357.

State of Ohio v. W. P. Bowers.

Error to common pleas court. Judgment of common pleas court affirmed in part and reversed in part May 14, 1906.

*Summit County.*

No. 686.

State of Ohio ex rel. Attorney General v. The Chevaliers.

Quo warranto. March 24, 1905, petition and waiver of summons filed. Pending.



**Cases Pending or Disposed of in Courts of Common Pleas from January 1, 1906, to January 1, 1907.**

*Adams County.*

No. 1166.

State of Ohio v. William E. Gregory.

Prosecution for arson. January 19, 1906, transcript from criminal docket of Mayor of Manchester filed. Tried twice; jury disagreed on first trial; verdict guilty May 26, 1906.

*Athens County.*

No. 2689.

State of Ohio v. Winfield Scott, Sr.

Prosecution for larceny. April 25, 1906, indictment filed. August 4, 1906, verdict guilty. August 11, 1906, motion for a new trial overruled, defendant sentenced.

No.

State of Ohio ex rel. George Harrison, Etc. v. The Luhrig Coal Company, Etc., et al.

Injunction.

July 13, 1906. Petition filed.

Disposed of.

*Clinton County.*

No. 9502.

The Wilmington Business Men's Company, Etc., v. S. A. Mitchell, Treasurer, Etc.

Injunction to restrain collection of Dow tax. Petition filed March 17, 1905. Pending.

No. 89999.

*Cuyahoga County.*

The Phillips Building Company v. The Glenville Publishing Company.

July 7, 1906, motion for order requiring payment of Willis tax.

No. 96233.

State of Ohio v. The Pennsylvania Company, Etc., et al.

Injunction. February 23, 1906, petition filed. Disposed of.

*Delaware County.*

No. 5840.

**W. Z. Evans v. State of Ohio.**

Error to Mayor's court of City of Delaware. Prosecution for violation of pure food laws. See circuit court list.

*Erie County.*

No. 9478.

**The Sandusky Fish Company v. State of Ohio.**

Action for money. Pending.

No. 9512.

**H. C. Payson v. State of Ohio.**

Action for money. Pending.

*Fayette County.*

No. 13224.

**State of Ohio ex rel. James A. McLain v. H. D. Chaffin, Auditor, Etc.**

Mandamus to test question as to Deputy Sheriff acting as court bailiff. Petition filed January 29, 1906. Judgment for defendant. Carried to circuit court. See circuit court list.

*Franklin County.*

No. 42736.

**State of Ohio v. The Columbus Construction Company et al.**

Action on contractor's bond. Settled and dismissed at defendant's costs.

No. 44762.

**State of Ohio v. The Sunlight Gas Company.**

Dismissed at defendant's costs January 3, 1906.

No. 45356.

**State of Ohio v. John L. Wilgus.**

Action respecting title to canal lands. Pending.

No. 45357.

**State of Ohio v. Howard Adamson.**

Action respecting title to canal lands. Pending.

No. 47080.

State of Ohio v. The Ohio River & Western Railway Company.

Dismissed at defendant's cost May 9, 1906.

No. 47841.

State of Ohio v. The Columbus Transfer Company et al.

Injunction. Pending.

No. 48953.

State of Ohio v. The Keppler Bros. Company.

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 48967.

State of Ohio v. The O'Dell Company.

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 48968.

State of Ohio v. The Consumers' Sampling & Distilling Company.

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 48970.

State of Ohio v. The Normandy Real Estate Improvement & Building Company.

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 48972.

State of Ohio v. The Ohio Machinery Company.

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 48973.

State of Ohio v. The United States Paint & Glass Company.

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 49297.

State of Ohio v. The Washington Building Company.

Action for recovery of Willis tax. Filed in 1905. Pending.



No. 49301.

**State of Ohio v. The William J. F. Reynolds Company.**

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 49303.

**State of Ohio v. The Wyldwood Heights Improvement Company.**

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 49305.

**State of Ohio v. The Fredericksburg Brick and Coal Company.**

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 49652.

**William E. Iler v. Charles W. Heyl et al.**

Action against game warden for false imprisonment. Pending.

No. 49834.

**State of Ohio v. The Irondale Company.**

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 49836.

**State of Ohio v. The Highland Building Company.**

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 49837.

**State of Ohio v. The Erie Realty Company.**

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 49877.

**Anna E. K. Patterson et al. v. Isabella Hamilton et al.**

May 2, 1906, sale confirmed and judgment for balance due.

No. 50219.

**In the matter of the application of John R. Cuppy for a writ of Habeas Corpus.**

Petition filed November 17, 1905.

February 15, 1906, petition dismissed.

See circuit court list.

No. 50578.

In the matter of the application of Ira Bailus for a writ of Habeas Corpus.

See circuit and supreme court lists.

No. 50866.

In the matter of the application of J. Williams for a writ of Habeas Corpus.

Dismissed.

No. 51106.

State of Ohio v. The Manhattan Oil Company.

Action for recovery of Willis tax. October 29, 1906, finding for defendant.

No. 51107.

State of Ohio v. The Vacuum Oil Company.

Action for recovery of Willis tax. Filed in 1905. Pending.

No. 51134.

State of Ohio v. Samuel T. Dobson.

Action respecting title to canal lands. Pending.

No. 51194.

In the matter of the application of E. Alfred Welsh for a writ of Habeas Corpus.

Dismissed.

No. 51257.

State of Ohio v. William Shepard et al.

July 9, 1906, petition filed. Pending.

No. 51310.

In the matter of the application of Bessie King for a writ of Habeas Corpus.

June 28, 1906, dismissed.

No. 51408.

State of Ohio v. The Cleveland Color Company.

Action for recovery of Willis tax. July 16, 1906, petition filed. October 22, 1906, default judgment taken, execution issued.

No. 51478.

**State of Ohio v. The American Arch and Culvert Company.**

Action for recovery of Willis tax. August 1, 1906, petition filed September 8, 1906, settled and dismissed at defendant's costs.

No. 51681.

**W. H. English, Receiver, Ttc., v. The McLeish Coal Mining Company.**

September 19, 1906, motion for order requiring payment of Willis tax.

No. 51695.

**State of Ohio v. The J. A. McAuley Tent and Awning Company.**

Action for recovery of Willis tax. September 19, 1906, petition filed. October 22, 1906, settled and dismissed at defendant's costs.

No. 51696.

**State of Ohio v. The McAuley-Peters Tent and Awning Company.**

Action for recovery of Willis tax. September 19, 1906, petition filed. Pending.

No. 51697.

**State of Ohio v. The Walker Mining & Manufacturing Company.**

Action for recovery of Willis tax. September 19, 1906, petition filed. Pending for service.

No. 51987.

**State of Ohio v. The Jewett Car Company.**

Action for recovery of Willis tax. November 10, 1906, petition filed. Settled and dismissed at defendant's costs.

No. 52028.

**State of Ohio v. The Covington & Cincinnati Bridge Company.**

Action for recovery of Willis tax. November 19, 1906, petition filed. Pending.

No. 52130.

**State of Ohio v. Rudolph F. Balke.**

Action for money. December 7, 1906, petition filed. Pending.

No. 52143.

**State of Ohio v. The Cleveland Linseed Oil Company.**

Action for recovery of Willis tax. December 10, 1906, petition filed. Settled and dismissed at defendant's costs.



No. 52144.

State of Ohio v. The Cleveland Linseed & Oil Company.

Action for recovery of Willis tax. December 10, 1906, petition filed. Settled and dismissed at defendant's costs.

No. 52158.

State of Ohio v. Robert E. McClure et al.

Action on bond. December 12, 1906, petition filed. Pending.

No. 52159.

State of Ohio v. Margaret F. Fenn, et al.

Action respecting title to canal lands. December 12, 1906, petition filed. Pending.

*Hamilton County.*

No. 116644.

State of Ohio v. The Bellevue Brewing Company.

Action respecting title to canal lands. Pending.

No. 121479.

John Crippel v. State of Ohio.

Error to Justice of the Peace in conviction under pure food law. Pending.

No. 121705.

Brocker v. State of Ohio.

Error to Justice of the Peace in conviction under pure food law. Pending.

No. 126180.

George E. Klemm v. The Ohio Farmers' Insurance Company, etc., et al.

Action for damages. Disposed of.

No. 129698.

State of Ohio v. The Edwards Railroad Electric Light Company.

Action for recovery of Willis tax. Petition filed August 25, 1904. Pending.

No. 130080.

Charles V. Rebert v. State of Ohio.

Error to Justice of the Peace in conviction under pure food law. Disposed of.

No. 130186.

**Henry Behrens v. State of Ohio.**

Error to Justice of the Peace in conviction under pure food law.  
Pending.

No. 130337.

**Louis Stein v. State of Ohio.**

Error to Justice of the Peace in conviction under pure food law.  
Disposed of.

No. 131604.

**Hattie E. Edman v. The O'Dell Commission Company.**

Answer and cross petition filed for recovery of Willis tax. Dis-  
posed of.

No. 132503.

**Katherine Markus v. State of Ohio.**

Error to Justice of the Peace in conviction under pure food law.  
Judgment reversed. Error taken to circuit court. See circuit  
court list.

No. 132504.

**Joseph Schoellmoeller v. State of Ohio.**

Error to Justice of the Peace in conviction under pure food law.  
Judgment reversed. Error taken to circuit court. See circuit  
court list.

No. 132548.

**Effie Root v. State of Ohio.**

Error to Justice of the Peace in conviction under pure food law.  
Judgment reversed. Error taken to circuit court. See circuit  
court list.

No. 132549.

**Frederick W. Steuver v. State of Ohio.**

Error to Justice of the Peace in conviction under pure food law.  
Judgment reversed. Error taken to circuit court. See circuit  
court list.

No. 132550.

**Frederick Schlicht v. State of Ohio.**

Error to Justice of the Peace in conviction under pure food law.  
Judgment reversed. Error taken to circuit court. See circuit  
court list.

No. 132551.

George Gaiser v. State of Ohio.

Error to Justice of the Peace in conviction under pure food law.

Judgment reversed. Error taken to circuit court. See circuit court list.

No. 131787.

Walter D. Guilbert, Auditor, etc., v. The Franklin Bank.

June 24, 1905, petition filed. Pending.

No. 133348.

Walter D. Guilbert, Auditor, etc., v. S. Kuhn & Son.

January 25, 1906, petition filed. Pending.

No. 134803.

State of Ohio v. International Text Book Company.

Action under section 148c R. S. Pending.

No. 135687.

State of Ohio. v. The Thacker Company.

Action for recovery of Willis tax. November 16, 1906, petition filed. Settled and dismissed at defendant's costs.

*Superior Court of Cincinnati.*

No. 52443.

State of Ohio v. Rufus B. Smith, Receiver of The Wellman Stone Company.

Action for recovery of Willis tax. Pending.

No. 3566.

Bernard Wrede v. Charles C. Richardson.

Action to test validity of "Aikin" law. Brief in support of validity of act filed December 29, 1906.

*Hancock County.*

No.

The Standard Oil Company v. State of Ohio.

Error to probate court. December 24, 1906, judgment reversed.



*Probate Court.***State of Ohio v. The Standard Oil Company.**

Criminal prosecution under anti-trust act. July 7, 1906, information filed. October 19, 1906, verdict of guilty. Defendant fined \$5,000.

*Licking County.*

No. 13893.

**The City of Newark, Etc., v. The American Light & Water Company, et al.**

Injunction. June 15, 1906, petition filed. June 22, 1906, injunction issued.

*Lucas County.*

No. 54535.

**Edwin W. Newton v. Arthur I. Vorys, Superintendent, etc.**

December 29, 1905, petition filed. January 16, 1906, answer filed. Pending.

*Montgomery County.*

No. 24990.

**Stephen W. Long v. A. F. Shepherd.**

Appeal from judgment of the Justice of the Peace.

No. 25253.

**C. W. Brinkle v. The Brinkle & Reading Company.**

June 21, 1906, motion for order requiring payment of Willis tax.

No. 27097.

**James C. Martin v. Alfred P. Sandles, et al.**

Injunction. July 26, 1906, petition filed. August 23, 1906, answer filed. Pending awaiting decision of court in Horsemen's Protective Association v. Sandles.

No. 27122.

**Marcellus S. Benn v. Alfred P. Sandles, et al.**

Injunction. Petition filed August 3, 1906. Pending awaiting decision of court in Horsemen's Protective Association v. Sandles.

No. 27124.

**William F. Neff v. Alfred P. Sandles, et al.**

Injunction. August 3, 1906, petition filed. Pending awaiting decision of court in Horsemen's Protective Association v. Sandles.

No. 27131.

William B. Earnshaw v. Alfred P. Sandles, et al.

Injunction. Petition filed August 8, 1906. Pending awaiting decision of court in Horsemen's Protective Association v. Sandles.

No. 27140.

Oliver P. Sifrit v. Alfred P. Sandles, et al.

Injunction. August 8, 1906, petition filed. Pending awaiting decision of court in Horsemen's Protective Association v. Sandles.

No. 27144.

Edward W. Hanley v. Alfred P. Sandles, et al.

Injunction. August 13, 1906, petition filed. Pending awaiting decision of court in Horsemen's Protective Association v. Sandles.

No. 27161.

Harry Gross v. Alfred P. Sandles, et al.

Injunction. Pending awaiting decision of court in Horsemen's Protective Association v. Sandles.

No. 27162.

John J. White v. Alfred P. Sandles, et al.

Injunction. Pending awaiting decision of court in Horsemen's Protective Association v. Sandles.

No. 27167.

The Horsemen's Protective Association, Etc. v. Alfred P. Sandles, et al.

Injunction. Petition filed August 21, 1906. Answer filed September 10, 1906. Trial October 18, 1906. Decision reserved.

*Ottawa County.*

No. 5386.

Louisa Hanlon v. State of Ohio.

Petition filed January 31, 1906. September 4, 1906, demurrer overruled. Taken to circuit court. See circuit court list.

*Perry County.*

No. 3997.

**Elizabeth M. Hamilton v. Harvey Walker.**

Pending.

*Putnam County.*

No. 9605.

**Walter D. Guilbert, Auditor, Etc., v. The Continental Bank.**

January 25, 1906, petition filed. February 8, 1906, dismissed at the request of the Auditor of State.

*Richland County.*

No. 10250.

**State of Ohio ex rel. The Drake Coal Company v. H. H. McFadden et al.**

Mandamus. December 10, 1906, petition filed. December 22, 1906, answer filed. Pending.

*Tuscarawas County.*

No. 9045.

**Lewis R. Hilton v. Greenbury W. Hilton, et al.**

February 13, 1905, petition filed. March 16, 1905, answer of Board of Public Works filed. Pending.

No. 9522.

**State of Ohio v. Frederick Graff.**

July 30, 1906, petition filed. September 1, 1906, answer and cross-petition filed.

*Warren County.*

No. 10351.

**Walter D. Guilbert, Auditor, etc., v. The Mason Bank.**

January 25, 1906, petition filed. May 23, 1906, dismissed at defendant's costs.



**Cases Pending or Disposed of in the Courts of the United States from  
January 1, 1906, to January 1, 1907.**

District Court of the United States for the Southern District of Ohio.

In re The Single Bulletin Company.

In bankruptcy. Petition in review of finding by referee making allowance for Willis tax filed. Pending.

**Criminal Proceedings Were Instituted under the Direction of the Attorney General as Follows ;**

For violation of pure food laws.....	120
For violation of employment agency laws.....	9
For violation of medical registration laws.....	28
For violation of pharmacal laws .....	16
For violation of stationary engineer laws.....	18
For violation of child labor laws.....	374
For violation of fish and game laws.....	49
For violation of orders of state board of health.....	1

## III.

## DETAILED REPORT OF THE ATTORNEY GENERAL.

MONEY COLLECTED AND COVERED INTO THE STATE TREASURY BY  
THE ATTORNEY GENERAL FROM DECEMBER 31, 1905,  
TO JANUARY 1, 1907.

Date. 1906.	From whom received.	Amount	
		Amount collected.	covered into State Treas.
Jan. 13.	The George B. Sprague Cigar Company.....	\$1,879 15	\$1,879 15
16.	" Columbus Bolt Works.....	4,745 25	4,845 25
17.	" E. B. Lanman Company.....	2,140 50	2,140 50
30.	" Baldwin Forging and Tool Company...	1,273 60	1,273 60
31.	" P. Hayden Saddlery Hardware Co.....	3,332 02	3,332 02
Feb. 14.	" George B. Sprague Cigar Company.....	1,711 33	1,711 33
15.	" Lattimer-Williams Company .....	1,182 66	1,182 66
16.	" E. B. Lanman Company.....	2,112 47	2,112 47
16.	" Columbus Bolt Works.....	4,659 82	4,659 82
28.	" P. Hayden Saddlery Hardware Co.....	3,404 55	3,404 55
Mch. 14.	" Baldwin Forging and Tool Company.....	1,705 85	1,705 85
15.	" Lattimer-Williams Company .....	1,259 85	1,259 85
15.	" George B. Sprague Cigar Company.....	1,740 38	1,740 38
16.	" Columbus Bolt Works.....	4,570 46	4,570 46
20.	" E. B. Lanman Company.....	2,241 48	2,241 48
31.	" P. Hayden Saddlery Hardware Co.....	3,566 70	3,566 70
April 2.	" George B. Sprague Cigar Company.....	1,854 83	1,854 83
9.	" Columbus Bolt Works .....	4,954 52	4,954 52
9.	" Baldwin Forging and Tool Company....	1,962 40	1,962 40
16.	" E. B. Lanman Company.....	2,550 60	2,550 60
23.	" Lattimer-Williams Company.....	1,201 69	1,201 69
30.	" P. Hayden Saddlery Hardware Co.....	3,765 22	3,765 22
May 10.	" George B. Sprague Cigar Company.....	1,673 53	1,673 53
16.	" Columbus Bolt Works.....	4,475 86	4,475 86
17.	" E. B. Lanman Company.....	2,319 90	2,319 90
21.	" Baldwin Forging and Tool Company....	2,979 45	2,979 45
June 4.	" Lattimer-Williams Company .....	1,215 55	1,215 55
4.	" P. Hayden Saddlery Hardware Co.....	4,370 75	4,370 75
6.	" Kinney & Newton, per J. W. Weil, Clerk	14 26	14 26
14.	" George B. Sprague Cigar Company.....	2,017 58	2,017 58
16.	" Columbus Bolt Works.....	5,634 20	5,634 20
19.	" E. B. Lanman Company.....	2,607 50	2,607 50
28.	" Baldwin Forging and Tool Company....	2,205 05	2,205 05
30.	" P. Hayden Saddlery Hardware Co.....	4,009 35	4,009 35
July 10.	" Lattimer-Williams Company .....	1,184 98	1,184 98
13.	" George B. Sprague Cigar Company.....	1,985 90	1,985 90
17.	" E. B. Lanman Company.....	2,408 73	2,408 73
17.	" Columbus Bolt Works.....	5,224 55	5,224 55
31.	" P. Hayden Saddlery Hardware Co.....	4,222 45	4,222 45
29.	" P. Hayden Saddlery Hardware Co.....	3,978 58	3,978 58



**Money Collected and Covered into the State Treasury by the Attorney  
General from December 31, 1905, to January 1, 1907 — Concluded.**

Date. 1906.	From whom received.	Amount collected.	Amount covered into State Treas.
Aug. 6.	" Lattimer-Williams Company.....	1,175 83	1,175 83
9.	" George B. Sprague Cigar Company.....	2,110 15	2,110 15
15.	" Baldwin Forging and Tool Company....	2,325 32	2,325 32
15.	" E. B. Lanman Company.....	2,612 38	2,612 38
16.	" Columbus Bolt Works.....	5,607 75	5,607 75
17.	" Baldwin Forging and Tool Company....	11 63	11 63
31.	" P. Hayden Saddlery Hardware Co.....	3,894 60	3,894 60
Sept. 12.	" George B. Sprague Cigar Company.....	1,969 63	1,969 63
15.	" E. B. Lanman Company.....	2,432 83	2,432 83
17.	" Columbus Bolt Works.....	5,323 50	5,323 50
18.	" Baldwin Forging and Tool Company....	2,511 00	2,511 00
20.	" Baldwin Forging and Tool Company....	13 53	13 53
Oct. 6.	" Lattimer-Williams Company .....	1,249 31	1,249 31
11.	" George B. Sprague Cigar Company.....	2,055 20	2,055 20
16.	" Columbus Bolt Works.....	5,348 40	5,348 40
16.	" E. B. Lanman Company.....	2,421 78	2,421 78
16.	" Baldwin Forging and Tool Company....	2,349 61	2,349 61
31.	" P. Hayden Saddlery Hardware Co.....	4,243 18	4,243 18
Nov. 8.	" Lattimer-Williams Company .....	1,109 10	1,109 10
12.	" Lattimer-Williams Company .....	1,318 36	1,318 36
14.	" George B. Sprague Cigar Company.....	2,262 05	2,262 05
16.	" Baldwin Forging and Tool Company....	2,311 35	2,311 35
16.	" Columbus Bolt Works.....	5,584 20	5,584 20
16.	" E. B. Lanman Company.....	2,591 70	2,591 70
17.	" Baldwin Forging and Tool Company....	11.56	11.56
30.	" P. Hayden Saddlery Hardware Co.....	3,910 70	3,910 70
Dec. 11.	" Lattimer-Williams Company .....	1,273 85	1,273 85
12.	" George B. Sprague Cigar Company.....	2,046 10	2,046 10
15.	" E. B. Lanman Company.....	2,379 70	2,379 70
17.	" Columbus Bolt Works.....	4,988 50	4,988 50
24.	" Baldwin Forging and Tool Company....	2,468 60	2,468 60
31.	" P. Hayden Saddlery Hardware Co.....	4,190 97	4,190 97
Total .....		\$194,445 87	\$194,445 87

**RECAPITULATION.**

Columbus Bolt Works.....	\$61,117 01
The E. B. Lanman Company.....	28,819 57
The Geo. B. Sprague Cigar Company.....	23,305 83
The Lattimer-Williams Company.....	12,171 18
The Baldwin Forging and Tool Company.....	22,128 95
The P. Hayden Saddlery Hardware Company.....	46,889 07
Kinney & Newton.....	14 26
Total .....	\$194,445 87

MONEY COLLECTED AND PAID TO VARIOUS STATE DEPARTMENTS  
BY THE ATTORNEY GENERAL FROM JANUARY 1, 1905, TO  
JANUARY 1, 1907.

Date. 1906.		Amount collected.	Amount paid over.
	662 Corporations delinquent under Willis law; to Secretary of State.....	\$70,325 05	\$70,325 05
May, 18.	Firemen's Insurance Co. of Baltimore — To Superintendent of Insurance.....	660 06	660 06
June 4.	Firemen's Insurance Co. of Baltimore.....	73 43	73 43
Dec. 15.	American Fire Insurance Co.....	3,923 44	3,923 44
24.	American Fire Insurance Co.....	8 00	8 00

DISBURSEMENTS OF THE ATTORNEY GENERAL.

Special counsel .....	\$25,340 27
Books and furniture.....	457 62
Stenographic work .....	544 65
Costs in cases brought by State.....	1,095 39
Contingent expense .....	2,616 86
All salaries fixed by law.....	11,500 00
Total .....	<hr/> \$41,555 79

## VI.

OPINIONS OF THE ATTORNEY GENERAL FROM JANUARY 1, 1906, TO  
DECEMBER 31, 1906.

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( To the Governor. )

## TERM OF OFFICE OF PROBATE JUDGE ELECTED NOVEMBER 7, 1905.

Term of office of probate judge elected November 7, 1905, is three years; constitutional amendment (Article XVII) adopted on same date did not affect such term.

January 4th, 1906.

*Hon. Myron T. Herrick, Governor of Ohio, Columbus, Ohio.*

DEAR SIR:— You have referred to me a letter received by you from W. E. Pardee, probate judge-elect of Summit county, in which he asks you, as governor, to issue a commission to him as probate judge for a term of four years, with a request for an opinion from this office as to your authority, by reason of the adoption of the biennial election amendment at the last election, to issue the commission for a longer period than three years.

The biennial election amendment fixes the term of office of a probate judge at four years and the first question to be determined is, does said amendment govern the term of a probate judge whose election was contemporaneous with its adoption? My judgment is that it does not, for the reason that said amendment cannot be considered to be adopted until after the election is over, therefore the term of office of a probate judge elected on the 7th day of November last would be governed by Section 7, Article IV of the constitution, which provides that the term of a probate judge shall be three years; that is, the provision of Section 7, of Article IV of the constitution would govern the election of a probate judge until after the adoption of the biennial election amendment which fixes the term of a probate judge at four years. If the contention that the biennial election amendment governs the term of office of a probate judge elected at the last November election is correct, then the election itself would be void for the reason that state and county officers, under the amendment, are to be elected in the even numbered years. In other words, if the amendment were to govern the term of a probate judge elected at the November election it would also govern the time of holding the election. In my judgment the term of office of a probate judge elected on the 7th of November last, is three years, as fixed by Section 7, Article IV, of the constitution.

The second question is, should the governor by reason of the fact that the amendment which fixes the term of a probate judge at four years is now in effect, issue the commission for four years? The amendment authorized the legislature to extend existing terms to conform thereto and does not, in itself, extend any existing term. While it fixes the term of a probate judge at four years, it does not operate as an extension of the tenure of an incumbent who was elected before its adoption; that is, the term of office of all probate judges elected after the adoption of the amendment shall be four years, but there can be no extension of the tenure of any incumbent who was elected for three years without legislative action, and then only if such extension is necessary to bring about the election of his successor in an even numbered year as required by Section 1 of the consti-



tutional amendment. Therefore, the operation of said amendment does not authorize you, as governor, to issue this commission for a longer term than three years.

Section 83 of the Revised Statutes provides that "upon producing to the proper officer authority a *legal* certificate," the governor shall issue a commission. The certificate of election filed with the Secretary of State in this case recites that "William E. Pardee was duly elected probate judge for the said county for the full term of four years," when it should recite that William E. Pardee was duly elected probate judge for the said county for the term of three years. The certificate is, therefore, in my judgment, illegal and you are not authorized to issue any commission until a legal certificate is produced to the proper officer.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### BOARD OF PUBLIC SAFETY—VACANCY IN—WHEN FILLED.

Vacancies in boards of public safety of municipal corporations filled after expiration of thirty days from first Monday in February.

February 2nd, 1906.

*Hon. John M. Pattison, Governor of Ohio, Columbus, Ohio.*

DEAR SIR:—Replying to your request for an opinion as to when you are authorized to act under Section 146 of the municipal code in filling vacancies in the board of public safety of any municipality, I beg to advise you that, in my judgment, such action cannot be taken until thirty days have elapsed after the first Monday in February, as provided in section 223 of said code.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### ATTORNEY GENERAL—DUTY OF, TO PROSECUTE VIOLATION OF LAW BY RAILROAD COMPANY.

Duty of commissioner of railroads and telegraphs to investigate complaint of violation of law by railroad company and to report to governor; authority of governor to require attorney general to prosecute railroad company for such violation of law.

February 21st, 1906.

*Hon. John M. Pattison, Governor, Columbus, Ohio.*

DEAR SIR:—You have referred to this department a letter from Messrs. Rheinstrom, Bettman, Johnson & Co., of Cincinnati, in which they state that the Commissioner of Railroads and Telegraphs has reported to you certain findings in the matter of their complaint against the Pittsburg, Cincinnati, Chicago & St. Louis Railway Co., for alleged violation on the part of the railway company of Section 3340 of the Revised Statutes of Ohio; and you request information as to your duties in the premises.

Sections 248 and 248a of the Revised Statutes make it the duty of the Commissioner of Railroads and Telegraphs, upon complaint that any railroad com-

pany or officer thereof has violated or is violating any of the laws of the state, to examine into the matter and make report of his findings to the general assembly, if in session, otherwise to the governor.

Section 202 R. S., as amended March 31, 1904, (97 O. L., 59), provides what are the duties of the attorney general, and requires him, when requested by the governor or general assembly, to appear for the state in any court or tribunal in any cause in which the state is a party or in which the state is directly interested.

By virtue of the foregoing sections, the attorney general, upon requirement of the governor, will take such action as the facts and law may justify.

The letter of Messrs. Rheinstrom, Bettman, Johnson & Co., is herewith returned.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### DOG TAX — BILL TO MAKE SAME LIEN UPON REAL ESTATE.

House Bill No. 99, providing that the per capita tax on dogs shall be levied upon real estate upon which dog is kept, constitutional so far as affects real property owned by person keeping such dog; as affecting property upon which dog is kept by person not the owner of such property, *quaere*.

March 22nd, 1906.

*Hon. John M. Pattison, Governor of Ohio.*

DEAR SIR:—I am in receipt of copies of H. B. No. 99, passed by the general assembly on the 19th inst., entitled, "A bill to amend section 2833 of the Revised Statutes of Ohio as amended April 22nd, 1904, providing for a better collection of the per capita tax on dogs."

You have submitted the same to me for an opinion as to its constitutionality. The new matter inserted in the bill as amendatory of the existing act provides that the tax shall be levied upon and entered against the real estate upon which the dog is kept or harbored, and collected as are other taxes upon real estate. Whether this tax can be enforced as a lien against property in cases where a dog is kept thereon by a lessee or other person not the owner of the property, is a doubtful question.

The provision of the Dow tax making the tax a lien on property where the business of trafficking in intoxicating liquors is carried on, has been held constitutional by the supreme court.

Anderson v. Brewster, 44 O. S., 576.

Section 4275 which provides that a judgment for money lost at gambling shall be a lien on the property in cases "where the owner knowingly permits it to be used for gaming purposes" has also been sustained.

Trout v. Marvin, 62 O. S., 132.

All the considerations which made these taxes a proper lien on the property do not apply to the present tax. However, the law will have a valid operation in so far as it makes the tax a lien on property owned by a person who himself keeps or harbors a dog thereon.

In as much as the courts will enforce statutes so far as they are constitutionally made, rejecting only those provisions which show an excess of authority

by the enacting power, H. B. No. 99, as amended, is not, in my opinion, unconstitutional.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### RAILROAD COMMISSION — APPOINTMENT OF COMMISSIONERS.

Railroad commissioners may be appointed after the expiration of sixty days from the passage of the act creating such commission; provision of said act requiring such appointment to be made within sixty days directory merely.

May 15th, 1906.

*Hon. John M. Pattison, Governor of Ohio.*

DEAR SIR:— You have requested my opinion as to whether the power conferred upon you by H. B. No. 78, to appoint railroad commissioners may be lawfully exercised by you after the expiration of sixty days from the passage of the act. The act provides that:

“Within sixty days after the passage of this act the governor shall, by and with the advice and consent of the senate, appoint such commissioners, but no commissioners so appointed shall be qualified to act until so confirmed, unless appointed during the adjournment of said senate.”

Is the provision as to the time within which the appointments must be made mandatory or directory? The most satisfactory test by which to determine whether an act is directory or mandatory is, whether the prescribed mode of action is of the essence of the thing to be accomplished, or, in other words whether it relates to matter material or immaterial—to matter of convenience or substance. Clearly in the present case the provision as to time was inserted for the purpose of making the act go into operation at the earliest practicable moment. To hold that if for any reason the appointments should not be made within the sixty-day period they could not be made thereafter, would defeat the very purpose for which the provision as to time was inserted. It can make no material difference, nor change in any substantial particular, the effect of the act, if the commission is appointed a month earlier or a month later.

Statutes fixing the time for the doing of an act, and containing no negative words forbidding the doing of it afterwards, are considered as merely directory, where the time is not fixed for the purpose of giving a party a hearing or for some other important purpose.

James v. West, 67 O. S., 28.

State v. Board of Supervisors, 17 C. C., 396.

State v. Harris, 17 O. S., 608.

Lewis's Sutherland on Statutory Construction, section 612.

Fay v. Wood, 65 Mich., 390.

People v. Allen, 6 Wend., 486.

The opinion of the court in the case of *In re. Census Superintendent*, 15 R. I., 614, is directly applicable to the facts in this case. In that case the court says:

“The only question therefore is whether the governor, having failed to make the appointment within the prescribed time, could make it after-



wards. We think he could, for without the appointment the taking of the census, which is absolutely prescribed, would fail. We think the provision as to time must be considered as merely directory. The duty to appoint being paramount and essential we think that here, without doubt, the purpose was not to limit the power but to insure its timely exercise."

It is expressly provided by section 36, of H. B. No. 78, that:

"\* \* \* the power and duties conferred and imposed upon the railroad commissioner *by laws in force at the passage of this act* shall continue to be exercised by him until the commission provided for in section 1 of this act has been appointed and qualified, whereupon the office of commissioner of railroads and telegraphs is hereby abolished.

It is therefore my opinion that the appointments need not be made within the sixty day-period fixed by the act, but should be made within such period, or as soon thereafter as is practicable and convenient.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### BENEVOLENT INSTITUTION — EMPLOYES OF.

Combined normal and industrial department of Wilberforce University not a benevolent institution within the meaning of Section 629, R. S., prohibiting the employment in such institutions of persons related to the trustees thereof.

June 5, 1906.

*Hon. John M. Patterson, Governor, Columbus, Ohio.*

DEAR SIR:— You have referred to this department a communication from Mr. A. I. Bond, at Wilberforce, with regard to a law prohibiting the employment of persons in the benevolent, penal and reformatory institutions of the state who are related to any of the trustees of said institution. Also as to the application of such law to the combined normal and industrial department at Wilberforce University.

Section 629 of the Revised Statutes of Ohio contains a provision prohibiting the employment of any persons in any of the benevolent, penal or reformatory institutions of the state, or of any county therein, who are related by blood or marriage to any of the trustees of said institutions. Section 629, R. S., however, does not apply to the combined normal and industrial department at Wilberforce University, as said department is not classed among the benevolent institutions of the state.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## RIGHT TO BEAR ARMS.

Limitations which may be lawfully imposed upon the constitutional right of the people to bear arms.

June 14, 1906.

*Hon. John M. Pattison, Governor, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date enclosing a communication addressed to you by G. W. Savage, Secretary-Treasurer of the United Mine Workers of Ohio, is received. The question submitted by you, through Mr. Savage's inquiry, is whether or not owners of coal mines have the right to employ armed men in and around their properties, traversing the public highways and public places, and whether or not coal miners have the right to arm themselves in the same manner.

Section 4 of Article 1 of the Constitution of Ohio provides that,

“ \* \* \* The people have the right to bear arms for their defense and security.”

Under this provision the people of Ohio, and all the people, are given the right, and the equal right, to carry arms for the purpose of self-defense and protection. There are certain limitations, however, which may be, and are, lawfully imposed upon the exercise of this right. In the first place, the arms must not be concealed. More than this, even if they are not concealed, they must not be borne or carried in such a manner as to constitute a menace or threat of a breach of the peace. If firearms or other weapons are carried in such a threatening manner as to imperil life or property or to provoke a riot or disturbance, the persons so carrying them are not protected by the provisions of the constitution of Ohio. In other words, while every citizen has the right to carry arms in defense of his life or property, yet if the situation in the coal mining regions of the state, to which you refer, should show that one or both of two hostile bodies of men are carrying arms so as to endanger the good order of the community, it would be the duty of the proper local authorities to enforce the law as against them, and the governor would be justified, if necessary, to use all the power at his command to avert the threatened danger.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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OHIO STATE SCHOOL FOR THE BLIND—ADMISSION OF NON-RESIDENT.

Trustees of the Ohio state school for the blind may admit non-residents upon terms imposed by such trustees.

July 12th, 1906.

*Hon. Andrew L. Harris, Governor of Ohio, Columbus, Ohio.*

DEAR SIR:—In reply to your request for an opinion as to whether a non-resident can be admitted to the Ohio State School for the Blind, I beg to advise you that the trustees of said institution have authority to admit non-residents, if be accommodation therefore, upon payment of such sum and upon such terms as the trustees may determine.

Section 668, R. S., provides:

"\* \* \* Nothing herein contained shall be construed to prohibit the admission of pupils who are not residents of Ohio, if there be accommodation therefor, upon the payment of such sums and upon such terms as the trustees may determine; and the money so received from pupils not residing in the state, shall be paid over to the steward, receipted for by him, and by him certified into the state treasury to the credit of the general revenue fund; and the steward shall make a correct record of all such moneys received by him in a book prepared for that purpose, which record shall be open for the inspection of any person wishing to examine the same."

I return herewith the letter enclosed in your communication of July 11th.

Very truly yours,

C. P. HINE,  
*Assistant Attorney General.*

### SALARY OF GOVERNOR, HIS SECRETARY AND EXECUTIVE CLERK.

Lieutenant governor succeeding to office of governor after compensation of said office increased may receive compensation to which predecessor entitled, during remainder of term for which predecessor elected; secretary and executive clerk appointed by him upon succeeding to office of governor entitled to compensation provided by the legislature during incumbency of their predecessors.

July 26th, 1906.

*Hon. Andrew L. Harris, Governor of Ohio, Columbus, Ohio.*

DEAR SIR:—I am in receipt of the following communication from Mr. Lemert, your executive clerk:

"I am directed by the Governor to submit to you the questions as to what salary Governor Harris, Secretary Flickinger and myself are entitled to.

"You doubtless know that the act of April 2, 1906, increased the salary of the Governor from \$8,000 to \$10,000, placed the Secretary to the Governor upon a salary of \$5,000 and increased the salary of Executive Clerk to \$3,000.

"Your compliance with this request without unnecessary delay will be appreciated."

The present term of governor began on the second Monday of January, 1906, and continues to the second Monday of January, 1908. This was the term for which a governor and lieutenant governor were last fall elected. At the beginning of this term the salary of the governor was fixed at \$8,000. Section 19 of Article III of the constitution provides as to the executive department of the state:

"The officers mentioned in this article shall, at stated times, receive for their services, a compensation to be established by law, which shall neither be increased nor diminished during the period for which they have been elected."

On April 2nd, 1906, the general assembly changed the salary of the governor from \$8,000 to \$10,000. The constitutional provision quoted, however, prohibits



any officers from receiving the increased compensation "during the period for which they shall have been elected." This provision manifestly prohibited Governor Pattison from receiving the increased compensation during the term for which he was elected, and the lieutenant-governor succeeding him occupies the same position. As lieutenant governor, upon the death of Governor Pattison, the duties and powers of the office for the residue of the term devolved upon the lieutenant-governor, who, as acting governor, assumed all such duties and powers, including the right to draw the compensation attached to the office and subject to all the constitutional limitations as to compensation affecting the particular term.

At the time of the inauguration of the governor and lieutenant-governor on the second Monday of January, 1906, the latter became vested with a contingent right to act as governor at the compensation then provided by law, without decrease, and the state became entitled to his services at the existing salary, without increase. The salary of any incumbent of the office of governor is, therefore, \$8,000 per annum until the second Monday in January, 1908, and \$10,000 per annum thereafter.

The secretary to the governor and the executive clerk are provided for by Section 80 of the Revised Statutes. No term is fixed for either office. They therefore hold during the pleasure of the governor. The present secretary to the governor and executive clerk were appointed after the passage of the act of April 2, 1906 (98 O. L., 365) and their salaries are consequently controlled by that act. The secretary's salary is \$5,000; the executive clerk's is \$3,000.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### STOCKADE OF LABORERS—DUTIES OF VARIOUS STATE DEPARTMENTS.

Powers and duties of commissioner of labor, inspector of workshops and factories and state board of health as to alleged stockade of laborers.

August 3, 1906.

*Hon. Andrew L. Harris, Governor of Ohio, Columbus.*

DEAR SIR:—By reference from you I am in receipt of newspaper clippings concerning an alleged stockade of certain laborers at Dayton, Ohio.

If the facts stated therein are true, the subject is one requiring the attention of possibly three state departments.

1st. The commissioner of labor has the power (Sec. 308) to *investigate, collect, arrange and systematize statistics* relating to the *industrial, social, educational and sanitary* condition of the laboring classes and for this purpose has the right (Sec. 309) to send for persons and papers, to examine witnesses under oath, to take depositions or cause them to be taken by others authorized by law to take depositions, limited only by the provision that persons shall not be obliged to leave the vicinity of their residence or place of business.

By no statute is authority given the commissioner to require any improvements or alterations in the conditions as he finds them, but he shall (Sec. 310) make an annual report of same to the general assembly, but said report shall be so arranged as not to expose without the written consent, the name or private affairs of any person, firm or corporation that has furnished such information as the bureau requires.

2nd. The inspector of workshops and factories is given certain powers enu-

merated in Sec. 4238c which look to the sanitary conditions and safety appliances installed and maintained in *buildings where persons are employed at daily labor* also to require *safety regulations* with respect to the construction of such building, including also *tenement houses*. This department also has authority to compel obedience on the part of employers to the child labor laws and others upon kindred subjects. In the execution of his duties the inspector may serve notice upon the proprietors, owners or agents of such places to correct the abuse if any is found, and a refusal to obey such notice is a misdemeanor.

3rd. The state board of health (Sec. 409-25) shall have supervision of all matters relating to the preservation of the life and health of the people of the state, and may enforce its regulations in respect thereto.

I return herewith the clippings and suggest the submission of same by you to the various heads of the departments named, believing that the facts indicate with sufficient exactness a condition warranting an investigation with a view to ascertaining whether or not any of the laws enforceable by the respective departments are violated and the subsequent correction of any abuses that may be found to exist.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### IN RE SULTANA MONUMENT COMMISSION.

The act providing for the erection of a monument to the victims of the Sultana disaster does not authorize the erection of such monument within the state house grounds.

December 19th, 1906.

*Hon. Andrew L. Harris, Governor of Ohio, Columbus.*

SIR: — Pursuant to your request I have made an investigation of the charges and counter-charges of unlawful and improper conduct on the part of the Commission, the granite companies and others connected with the proposed erection of a monument to the soldiers who lost their lives by the sinking of the steamship Sultana at the close of the civil war.

An act was passed by the last General Assembly of Ohio on April 2nd, 1906, to authorize the appointment of a Commission for this purpose and making an appropriation therefor of \$15,000 (98 O. L., 308). There were appointed upon the commission Dr. W. P. Madden of Xenia, Captain L. J. Cutter of Marietta and John J. Zaiser of Canton.

From time to time during the summer and fall there were reports, either in the form of protests to the Governor or of suspicious rumors in the newspapers, that improper influences of some kind were at work in connection with the letting of the contract for the monument. These culminated on November 8th and 9th in certain specific charges filed in the executive office. The most important of these charges were as follows:

First: By the Hughes Granite Company, of Clyde, Ohio, through Mr. W. E. Hughes, to the effect that the Sultana Commission had awarded the work of preparing the model and designs for the proposed monument to a New York sculptor, contrary to law; were about to make a contract with the Leland & Hall Company, a favored granite firm of New York, for the construction of the monument without competitive bidding, and the whole work of the Commission was tainted "with the disgrace of the charge of graft and boodle."

Second: By the three members of the Commission to the effect that at various



times and places Mr. Hughes, President of the Hughes Granite Company, had attempted to secure the contract for the erection of the monument by offering stock in his company at a nominal price to the three members of the Commission, and had offered employment to one of the members for this purpose.

In addition to these written charges filed with the Governor there were several others of a more or less definite character in the newspapers, the most direct of these being that Mr. R. A. Pollock, State Senator from the Canton, Ohio, district, had offered to Mr. P. E. Bunnell, agent of the Leland & Hall Company, to secure the favorable vote of Mr. Zaiser, a member of the Commission, through the use of money.

All these charges were investigated at public hearings held in the office of the Attorney General on Saturday, December 8th, 1906. There were present at said hearing Messrs. Madden, Cutter and Zaiser, members of the Sultana Commission; Mr. W. E. Hughes, of the Hughes Granite Company; Mr. P. E. Bunnell, of the Leland & Hall Company; Major E. F. Taggart, Past Commander of the Department of Ohio of the Grand Army of the Republic, who had protested to the Governor and certain members of the commission against the manner in which the contract was about to be awarded; Senator Pollock, Mr. J. Edward Sims, a newspaper correspondent; Messrs. David F. Pugh and Frank S. Monnett, attorneys representing the Hughes Granite Company, and Mr. J. E. Todd, attorney representing the Leland & Hall Company.

Although the investigation was a voluntary proceeding, the Attorney General having no authority to compel the attendance of witnesses or to have oaths administered, yet each person requested to appear was present and consented to be, and was sworn by a notary public. Shorthand notes of all the testimony was taken and a complete transcript of the same is herewith transmitted.

The testimony upon the subject of bribery or attempted bribery developed so many contradictions and flat denials that it cannot be said that any of the charges in this respect were sustained.

As to the charge that the Commission had, or was about to enter into a contract with the Leland & Hall Company for the construction of the monument, without competitive bidding, I find that this was not supported by any evidence; but that the only contract they had entered into was one with Mr. Landi, a New York sculptor, for the construction of a working model to be cast in bronze, for which they had agreed to pay, when approved by the Commission, the sum of \$4,000, and that while this contract may have been unnecessary and might have been submitted to competition or included in the entire contract for the construction of the monument, it was not required by law to be so awarded, and was awarded in good faith.

As to the general charge that the Commission was actuated by corrupt or improper motives, this was not sustained in any particular. It may have been unnecessary and unwise for the Commission to make a trip to New York and Boston to look at monuments, and to Barre, Vermont, to look at quarries, and to spend public moneys for such a purpose in view of the fact that designs and specifications could have been procured by invitation and sculptors and monument builders without such means. It may have been, and doubtless was, injudicious for the members of the Commission to permit the Leland & Hall Company to entertain them and pay some of their hotel bills and other expenses while in the east. It was clearly improper for one of the members of the Commission, Mr. Zaiser, to borrow money from the representative of the Leland & Hall Company, and particularly not to repay the loan until after the conduct of all the parties promised to be made public. But all these things, when carefully scrutinized, in the present instance, show only inexperience and indiscretion without any corrupt intent.



As to the charges that W. E. Hughes of the Hughes Granite Company, attempted to procure the contract by offering stock in his company at a nominal price to all the members of the Commission and employment to one of the members, the testimony showed that while the three Commissioners signed such a charge, Mr. Zaiser, although the same was read to him twice, did not comprehend the accusation and subsequently denied any intentional part in it. Messrs. Madden and Cutter testified that Mr. Hughes had made this offer to them and Mr. Hughes denied it. Whatever the truth may be, it is clear, on the one hand, that no member of the Commission entertained or accepted such a proposition, and equally clear not only from the testimony of the members of the Commission, but from the admissions of Mr. Hughes that, notwithstanding his protest against the letting of the contract without competitive bidding, he was himself attempting to secure the same without the formality thus required by law.

My conclusions therefore are as follows:

*First:* That no charges of the corrupt use of money or other inducements were sustained on either side.

*Second:* That the members of the Commission, while not always discreet, were proceeding in good faith to perform the trust committed to them and were not at any time actuated by dishonorable motives.

*Third:* That the whole controversy arose from the over-zealousness of the agents of the two rival granite companies, who were a little too anxious to defeat each other and a little too willing to take advantage of less experienced men.

In conducting this investigation it has been necessary to examine the law providing for the erection of the Sultana monument, and the discovery has been made that, while the preamble of the act expresses a legislative intent that the monument shall be erected on the State House grounds, the act itself does not grant any power to the Commission to use such grounds or any part of the same for this purpose. The statute seems, therefore, inoperative for the object sought to be accomplished, and I recommend that no further action be taken by the Commission until this doubt as to its power be removed by such amendment as the next General Assembly may think proper to make.

Respectfully submitted,

WADE H. ELLIS,  
*Attorney General.*

( To the Secretary of State. )

PROPOSED AMENDMENT TO ARTICLES OF INCORPORATION OF  
BANKERS IDENTIFICATION COMPANY.

Articles of incorporation of Bankers Identification Company may not be so amended as to provide for payment of money upon injury to members; such amounts to insurance business.

January 9th, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:— I beg to acknowledge the receipt of your communication enclosing for the consideration of this department, a copy of an amendment to the Articles of Incorporation of The Bankers Identification Company, which amendment is in words as follows:

“Said corporation is formed for the purpose of furnishing its members, in case of injury by accident a ready and sure means of identification, and to pay a certain class of persons employed by such members to render certain assistance and service on account of injury by accident, certain sums to be agreed upon between the company and members, and in no case to pay any amount to members.”

The foregoing amendment amends the purpose, as provided in the original articles of incorporation, which purpose as recited in such original articles, was as follows:

“Said corporation is formed for the purpose of furnishing its certificate holders a ready and sure means of identification, and such other information, as may be required, concerning the standing and character of the certificate holder within the liability of the company to furnish.”

There is accompanying the articles of incorporation of such company and the amendment thereto above set forth, a form of contract which is proposed to be written by this company, and upon consideration thereof I express the opinion that the contract sought to be written is one substantially amounting to insurance.

Under date of July 6th, 1901, Hon. A. I. Vorys, Superintendent of Insurance, gave to the counsel for this company an opinion that the association in question was an insurance association, that it was not exempted from the laws regulating such companies, and that before operating in this state it would be compelled to qualify as an insurance company. In the opinion then expressed by such department I fully concur.

The amendment attempted to be made by it to its articles of incorporation does not change the character of business sought to be done by it, and it is still subject to the same criticism as was then made against it by the Superintendent of Insurance.

Second. I further am of the opinion that the purpose of the corporation as recited in the amendment of its articles is indefinite in this, that it does not say what is the assistance and service that is to be performed, the furnishing of which is guaranteed by the company; and for the further reason that the literature of the company discloses that it is formed for professional business, and therefore should not be sanctioned or approved by your department.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

MAYOR — TENURE OF OFFICE OF.  
Mayor serves until successor qualifies.

January 20th, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:— In response to your inquiry as to whether the president pro tem. of council should perform the duties of the mayor of the village when the person elected to that office fails to qualify, or whether the mayor in office continues in office, I beg to say that Section 200 of the municipal code provides that the mayor shall continue to serve until his successor is elected and *qualified*. The president pro tem. of council shall become the mayor only in case of the death, resignation or removal of the mayor. Unless the successor was not only elected but qualified the incumbent holds over.

The supreme court of this state in construing a similar provision in *State ex rel v. Howe*, 25 O. S. 588, held that:

“In such case, there is no interregnum or vacancy in the office. It passes in succession. The end of one tenure, and the beginning of the next, occur at the same instant. But if no successor be qualified, the old incumbent continues in office, not as a mere de facto officer or locum tenens, but as its rightful and lawful possessor until such successor is duly appointed and qualified.”

Throop on Public Officers, Section 329, says:

“If the people fail to elect an officer’s successor or the person elected by them fails to qualify, there is no vacancy, and the incumbent holds over.”

The holding over by the incumbent until the election and qualification of his successor continues until a successor can be elected in the manner provided by law. As it was said in *State ex rel v. Wright*, 56 O. S. 540,

“By a successor is not meant a more temporary appointee, but one regularly chosen in succession to the office to take the place of the predecessor on account of the cessation of his right of occupancy.”

The first paragraph of the syllabus in this case was as follows:

“A mayor of a municipal corporation who has been regularly elected to the office, is entitled to serve until his successor is qualified; and while he continues to so serve on account of a failure to elect his successor, there is no vacancy in the office, nor is the council authorized to make any appointment thereto.”

It appears therefore that at the termination of the regular term of the incumbent there is no vacancy in the office and that the incumbent will continue to hold the office until the next ensuing regular election for municipal officers.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



# ARTICLES OF INCORPORATION OF UNITED STATES COFFEE COMPANY — "ANNUITY CONTRACT."

Articles of incorporation of United States Coffee Company providing for "annuity contract" attempt to authorize insurance business, and may not be filed.

January 25th, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR: — I have received the articles submitted to you by the United States Coffee Company for the purpose of obtaining a certificate evidencing its compliance with Sections 148c and 148d of the Revised Statutes authorizing it to do business in the state of Ohio.

This company seems to be incorporated under the laws of the state of West Virginia for the purpose of dealing in tea, coffee and spices and in the language of its charter, "in the transaction of such business may and is hereby authorized to issue a contract of annuity to its customers."

Accompanying the articles, I find a copy of the contract of annuity which the corporation proposes to issue to its customers. By the terms of this contract, in consideration of the weekly payment of a specified sum to the company, the company sells to the purchaser a certain amount of tea or coffee, and for the same consideration further agrees, in the event of the death of some person theretofore agreed upon, to annually pay such purchaser the sum of \$100.00 during the time that such weekly payments continue at the same rate.

This plan of business is nothing more nor less than life insurance and you are not empowered, in my opinion, to issue to the company a certificate authorizing it to do business in this state.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## CORPORATION — PRIVATE — CONTRACT OF — WITH MUNICIPAL CORPORATION.

Private corporation may be formed to contract with municipal corporation for use of streets, etc., for heating plant.

March 7th, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR: — Acknowledging the request that you have made for an opinion on the power of corporations to contract with municipal corporations as to the use of their streets, public ways, etc., for heating plants, I beg to say that under Section 7, paragraph 15 of the municipal code as originally enacted in 1902, no power was conferred upon municipalities to contract with or grant franchises to such character of corporations, but by that section the power to use the streets and public ways for such purposes was limited to strictly municipal heating plants, or plants organized and controlled by the municipal authorities.

By an amendment to paragraph 18 of Section 7 of the municipal code, which was approved April 27th, 1904 (97 O. L., 507; Ellis's Code, pp. 56, 56), power was granted to such companies and corporations as were organized for the purpose of supplying municipalities and the citizens thereof with heat, by steam or other-

wise, to use the streets, public ways, etc., upon such terms as might be conferred upon them by the municipal authorities for a period not to exceed twenty-five years, and this amendment gave to the municipalities power to contract with such companies, as well as to provide the terms for the use of such public ways.

It also contains a clause, curative in its nature, conferring upon existing companies the powers as to existing contracts made before the enactment of such law. It therefore follows that corporations may be organized in Ohio for the purposes herein referred to.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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#### WILLIS LAW—WHEN NATURAL GAS COMPANY SUBJECT TO.

March 9th, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I have had under consideration the question presented by the Homer Natural Gas Company and the Centerburg Gas & Oil Company. It appears that both of these companies are natural gas companies and the inquiry is, whether they are subject to the provisions of Section (2780-24) of the Revised Statutes commonly known as the Willis law. Under Section 7 of this act (2780-30) a natural gas company required by law to file an annual report with the auditor of state is not subject to the provisions of that act. Under Section (2780-17) natural gas companies when engaged in the business of supplying natural gas to consumers within this state are required to make reports to the auditor of state. The exemption from the operation of the Willis law is, therefore, dependent upon two things: first, that the person claiming the exemption is a natural gas company, and secondly, that it is engaged in the business of supplying natural gas to consumers within this state. In other words, in order to escape from the franchise tax under the Willis law the corporation so escaping must have become subject to the excise tax law and liable for taxes thereon. The only question to be determined, therefore, is whether or not at the time covered by these reports, that is, May 1905, the companies were actually supplying natural gas to consumers, if so, they are exempt from the operation of the Willis law, otherwise they are not.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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#### ARTICLES OF INCORPORATION OF FUNERAL BENEFIT ASSOCIATION OF KNIGHTS OF THE GOLDEN EAGLE OF SPRINGFIELD, OHIO.

Incorporation of funeral benefit association, separate from local lodge, unauthorized by act regulating fraternal beneficiary associations.

March 28th, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I transmit to you herewith the proposed articles of incorporation of the Funeral Benefit Association of the Knights of the Golden Eagle, of



Springfield, Ohio. This proposed corporation is sought to be incorporated under the provisions of the act regulating fraternal beneficiary associations, Sections (3631-11 to 3631-33) inclusive and pursuant to the provisions of Section (29) thereof.

I am of the opinion that the provisions of that act will not permit separate corporations to be formed for the purpose of providing for the payment of death benefits as therein named, because if incorporated the government of the so-called funeral benefit association would not be vested in the local lodge or in the fraternal beneficiary association of that name, but would be vested in the board of directors of the corporation and, if so, it would not be brought within the exemption mentioned in Section (29) of the act above cited.

My conclusion thereon is fortified by the uniform practice adopted by other fraternal orders operating in this state, engaged in the payment of death benefits paid by the local lodge or association without the intervention of a separate corporation to manage and control the same, and the insurance department of the state has uniformly construed this law to apply only to such associations as assume the payment of death benefits by the lodge or association as defined by the act regulating fraternal beneficiary associations as amended May 12th, 1902.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### DIRECTORS — STATUTORY REQUIREMENTS AS TO.

Majority of directors of Ohio corporations must be citizens of Ohio; secretary of state may not waive this requirement.

April 16th, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR: — I have your communication accompanied by a letter of Mr. C. R. James to you under date of April 13th, 1906. In answer thereto, I beg to say that Section 3248 of the Revised Statutes of Ohio requires that a majority of the directors of a corporation organized under the laws of Ohio must be citizens of the state of Ohio. Of course no officer of the state has power to waive this provision and a corporation offending against it would undoubtedly be subject to proceedings in quo warranto, and it would be the duty of this department to institute such proceedings in case its attention was directed to a condition violating this section.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### ARTICLES OF INCORPORATION OF TITLE GUARANTEE AND TRUST COMPANY.

Question of similarity of name must be determined by secretary of state.

April 19th, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR: — I transmit herewith articles of incorporation of The Title Guarantee and Trust Company and the letter of The Lenderson & Barch Abstract & Title Co., of Toledo, Ohio, together with their draft for the sum of \$150.00.



I have approved these articles, as I am of the opinion that they comply with the requirements of Section 3821ggg of the Revised Statutes, as amended by House Bill No. 393 of the 77th General Assembly.

I call your attention to the similarity in the name to that of "The Guarantee Title & Trust Company;" but as the question of similarity of name is to be determined by you pursuant to the authority conferred by Section 3238, R. S., I express no opinion thereon as to whether the same is so similar as to have a tendency to mislead the public or not.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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### WILLIS LAW — APPLICATION OF, TO CONSOLIDATED BRIDGE CORPORATION.

Bridge company, consolidated under laws of Ohio, is a domestic corporation and subject to Willis law.

April 21st, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:— From the facts submitted by you, it appears that a bridge corporation formed under the laws of this state for the purpose "of acquiring and maintaining a bridge across the Ohio river between the city of Cincinnati, in the state of Ohio, and the city of Newport, in the state of Kentucky," consolidated with a corporation having like powers and the same purposes formed under the laws of the state of Kentucky.

The question presented is whether under the statutes of this state imposing franchise taxes this consolidated corporation should pay franchise taxes to this state, and, if so, on what basis.

The consolidated corporation owes its existence in this state to Section 3547 of the Revised Statutes, which reads as follows:

"Such bridge company shall have the right to consolidate its capital stock with the capital stock of any bridge company in an adjoining state authorized to construct a bridge across the Ohio river, in the manner prescribed for the consolidation of railroad companies, and the two companies shall thereupon be merged into one corporation, possessing within this state all the rights, privileges, and franchises, and subject to all the restrictions, disabilities, and duties of such corporation of this state so consolidated."

Among the duties imposed upon domestic incorporations by the laws of this state is that of making an annual report to the secretary of state during the month of May, and "upon the filing of such report, the secretary of state shall charge and collect from such corporation a fee of one tenth of one per cent, upon the subscribed or issued and outstanding capital stock of said corporation."

See Sec. (2780-24) Bates Revised Statutes.

If the consolidated company is required to file a report in May the amount of fees or tax required of it is fixed.

Thompson on Corporations, Section 320, in a discussion of the consolidation of corporations formed under the laws of different states, says:

"From the foregoing observations, we are justified in the conclusion that a corporation created by the concurrent legislation of two or more states, exists in each of such states as a domestic corporation of that state."

"A corporation formed by a consolidation of a domestic and a foreign corporation, pursuant to Laws 1881 C. 94, must be deemed a "domestic corporation."

In re St. Paul Ry. Co., 36 Minn. 36.

The same conclusion is reached by the highest courts of other jurisdictions and the Supreme Court of this state seems to have indirectly passed upon the question in *Ashley v. Ryan*, 49 O. S., 504. The court there had under consideration the consolidation of two railroad companies. A consolidated railroad company bears the same relations to the state as a corporation formed from domestic and foreign bridge corporations. Compare Sections 3382 and 3547. Of the consolidated railroad company the court said:

"But it seems pretty well settled, upon principle at least, that where formed under co-operative legislation of the different states, it becomes a corporation in each state where its road is located. It is a legal entity residing in and doing business in different states, with a status in each, derived from and determined by the laws of that state."

And the court shows that under the then double liability clause of the Constitution of Ohio, stockholders of the consolidated corporation would have been subject to such double liability.

It may be argued that if each of the states concerned should levy a franchise tax based upon the entire capital of the company, double and excessive taxation will result. It must be remembered, however, that the consolidated company has all the corporate power that can be conferred by two sovereignties, and that it is entirely within the power of each state to impose upon the corporation all the duties and obligations imposed upon other corporations of its creation. Domestic corporations are taxed by this state upon the power granted by the state to them to do business as a corporation regardless of where they do business, or whether they do any business at all.

I am aware of the decision in *State v. Metz*, 32 N. J. L., 199, in which it was held that a bridge corporation formed by the consolidation of two corporations, one under the laws of New Jersey and one under the laws of Pennsylvania, was liable for taxation in New Jersey upon one-half only of its capital and surplus; but that was a case of property tax, while the question now to be considered is that of a franchise tax.

In my opinion, therefore, the consolidated corporation is for all purposes a domestic corporation and should be required to file reports as such during the month of May, and pay annual taxes equal to one-tenth of one per cent. upon its subscribed or issued and outstanding capital stock.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

WILLIS LAW — APPLICATION OF TO, WATER TRANSPORTATION  
COMPANY.

Water transportation company not engaged in business, subject to Willis law, not Cole law.

April 25th, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:— You present the report for 1906, under the provisions of the Willis law, of The Miami Transportation Company, and inquire whether this company is liable for report to you or to the Auditor of State, in accordance with the Cole law.

The company was organized for the purpose of

“building, owning, selling, operating and sailing boats, ships and vessels and doing a general transportation, freight and passenger business upon Lake Superior, Michigan, Huron, Erie and Ontario, and the waters connecting the same, and tributary thereto.”

The report submitted contains the statement in answer to question 7, “Sold out three years ago. Not engaged in any business.”

Section 7, of the Willis law, (2780-30) R. S., exempts from its operation *inter alia*,

“Public service corporations required by law to file annual reports with the Auditor of State.”

Section (2780-17), et seq. R. S., as amended April 25, 1904, defines certain corporations which shall file annual reports with the Auditor of State, among which are water transportation companies, defined as follows:

“When engaged as a common carrier in the transportation of passengers or property by boat, or other water craft, over any water way, whether natural or artificial, from one point within this state to another point within this state.”

It appears that the company is closing up its business and is not engaged in the transportation of passengers or property and would not, therefore, be liable for report and fee to the Auditor of State. It also appears that the company's franchise is still in existence and the powers conferred by same subject to its use. In such event I deem the company liable, under the provisions of the Willis law, for report and tax, and herewith return their report and the check for \$20.00 accompanying the same.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

PROPOSED AMENDMENT TO ARTICLES OF INCORPORATION OF  
GUARANTEE, TITLE AND TRUST COMPANY.

May 2nd, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:— I beg to acknowledge the receipt of the articles of incorporation of The Title Insurance and Loan Company, which name had by subsequent pro-



ceedings been changed to The Guarantee, Title and Trust Company, and which it is now proposed to amend in its purposes and objects as shown by the certificate of amendment signed by the president and secretary of such corporation under date of April 27th, 1906, and which amendment, together with the original articles of incorporation you have submitted to this department for a written opinion as to whether the same violates that provision of Section 3238a R. S., forbidding that any amendment to the articles of incorporation of an Ohio corporation should "change substantially the original purposes of its organization."

I have compared the purposes, as contained in the original articles, with the amendment, and note that the original articles did not alone create the corporation "an agency company" to act as agent of title, guarantee and trust companies, but conferred upon it the same powers in kind as are sought by the amendment submitted.

Upon such examination, I am satisfied that the change made by the amendment is one of the degree of the powers, and not any change in the character of the same. It might be questioned as to whether the proposed amendment was really necessary, although the object seems to have been to confer upon such corporation the powers provided by the recent act of the General Assembly, taking effect April 14th, 1906.

I therefore return the same to you, expressing the view that the amendment does not substantially change the original purpose of the organization of the corporation, and that it does not violate Section 3238a of the Revised Statutes.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### REDUCTION OF OUTSTANDING STOCK — CERTIFICATE OF, MUST BE FILED.

Preferred stock of private corporation may be redeemed and retired without filing certificate of reduction of capital stock; outstanding common stock may not be reduced without filing certificate of reduction. Annual report of American Foundry Co.

May 3rd, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—In connection with the enclosed letter of the American Foundry Company, you present two questions upon which you desire the opinion of this department.

First: A corporation organized for manufacturing purposes had \$25,000 preferred stock and \$25,000 common stock and now seeks to file an annual report under the Willis law showing all of the preferred stock except \$1,200.00 to have been redeemed. You ask whether this may be done without requiring the corporation to file a certificate of reduction of its capital stock.

Section 3235a provides:

"If the organization is for profit, it must have a capital stock. Such stock may consist of common and preferred or of common only \* \* \* and every corporation issuing both common and preferred stock may create such designations, preferences and voting powers, or restrictions or qualifications thereof, as shall be stated and expressed in the certificate of incorporation, and such preferred stock, may, if desired, be made subject to redemption at not less than par, at a fixed time and price to be expressed in stock certificate thereof."

The articles of incorporation of the American Foundry Company expressly provide for such redemption, and the same is therefore legal. Section 3264 does not apply, and there is no provision in the statute requiring a certificate to be filed in such cases.

Second: The second question is not raised in the case before us, but presented as a general proposition under facts substantially as follows:

A corporation filing its annual report in 1906, having only one class of stock, shows a less amount of "subscribed or issued and outstanding capital stock" than is shown in its report for 1905. No certificate of reduction under Section 3264 has in the mean time been filed, and you ask whether such report should be received.

Section 3264 provides the only means under the statute for a reduction of capital stock and no reduction may be made of issued and outstanding capital stock unless by a reduction of authorized capital stock as therein provided.

As to whether a corporation may purchase shares of its own stock from its stockholders and thereby reduce its outstanding capital stock, the decisions in this country are conflicting, and in general each case turns upon its own peculiar facts and the circumstances surrounding the particular transaction. In this state the leading case is that of *Coppin v. Greenlees & Ransom Co.*, 38 O. S., 275, which holds an agreement on the part of a corporation to purchase its own stock from a stockholder to be *ultra vires*, and on pages 279 and 280 the court say:

"Now, it is just as plain, that a business or trading corporation cannot exist without stock and stockholders, as it is that the creditors of such corporations are entitled to the security named in the constitution. *State ex rel Att'y General v. Sherman*, 22 Ohio St., 411. The corporation itself cannot be a stockholder of its own stock within the meaning of this provision of the constitution. Nobody will deny this proposition. And if a corporation can buy one share of its stock at pleasure, why may it not buy every share? If the right of a corporation to purchase its own stock at pleasure, exists and is unlimited, where is the provision intended for the benefit of creditors? This is not the security to which the constitution invites the creditors of corporations. I am aware, that the amount of stock required to be issued is not fixed by the constitution or by statute, and also that provision is made by statute for the reduction of the capital stock of corporations; but of these matters, creditors are bound to take notice. They have a right, however, to assume that stock once issued, and not called back in the manner provided by law, remains outstanding in the hands of stockholders liable to respond to creditors to the extent of the individual liability prescribed. In this view it matters not whether the stock purchased by the corporation that issued it, becomes extinct, or is held subject to be re-issued. It is enough to know that the corporation, as purchaser of its own stock, does not afford to creditors the security intended."

The later case of *Morgan v. Lewis*, 46 O. S., 1, does not overrule the previous case, although it decides the question differently under a different set of circumstances, and on page 6 the court say:

"We have no disposition to call in question the general and well recognized principle that a corporation cannot buy its own stock. It is conceded that this principle proceeds upon a want of power rather than upon any express prohibition in its charter. With this general principle conceded, however, the right of a corporation to take its own stock in satisfaction of a debt due it has long been recognized in this state."



And on page 8:

"It is apparent from the foregoing that no inflexible rule has been recognized by this court, that a corporation may not in any case nor for any purpose receive its own stock. On the contrary, the way is left open for the application of exceptions to the general rule in proper cases."

To further emphasize this rule in Ohio, the legislature by a recent act has authorized the purchase by corporations of stocks in *other* companies under certain conditions, thereby implying by negation at least, the lack of authority to deal in its own stock.

It is therefore settled in this state, for the present at least, that a corporation cannot, except in exceptional cases, where authority is granted either expressly or impliedly in its charter, or where the reason is plain and the transactions inure to the benefit of the corporation, become the owner of its own capital stock.

It is my opinion that for the purposes of collection of Willis taxes no retirement or reduction of "outstanding" stock should be permitted except by the reduction of *authorized* capital stock as provided in section 3264 R. S.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### AUTOMOBILE LICENSE LAW INVALID.

May 5th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—In answer to your recent inquiry relating to the act entitled "An Act to compel owners and operators of motor vehicles to register with the Secretary of State," passed April 2nd, 1906, I beg to advise you as follows:

This act is substantially a copy of the New York law of 1904, with some changes that add to the ambiguity of the law from which it is copied. These added ambiguities arise from a change in the sectional numberings. Sections 3 and 9, and all inclusive, were in the New York law part of the same section as Section 2 in the Ohio law. For instance, Section 9 of the Ohio law is subdivision 8 of Section 2 of the New York law, but while the sectional number is changed the language remains the same. When, therefore, what is Section 9 in the Ohio law, makes illegal a certain violation of "this section" it does not make anything illegal because there is nothing required by "this section," while in the New York law "this section" included *inter alia*, the provisions of Section 2 of the Ohio law.

Section 2 of the Ohio law provides that a license shall be taken out by certain owners of motor vehicles, but there seems to be no prohibition of the use of such vehicles when unlicensed. It seems to have been the intention of the General Assembly to prohibit the use and operation of unlicensed vehicles, but the failure of Section 9 of the law to accomplish that end leaves the state with no penalty against those who do not take out such license. It might be argued, however, that in as much as Section 2 imposes a duty, one not performing the same might be punished under Section 28 reading, "the violation of any other provisions of this act shall be punished," etc. If such construction should be sustained, it would be because the purpose of the act were to impose a tax upon the ownership of the vehicle and not to regulate the use of public highways, and:



such a tax could not be sustained under our constitution. The act has many other similar defects of form that need not be noticed here in view of more fundamental difficulties.

Whatever the act might have meant, had the New York law been followed in sectional numbering, the practical elimination of Section 9 removes all doubt as to the construction of Section 2. By this section licenses are required to be issued only to persons "hereafter acquiring" a motor vehicle. By its express terms, one owning a vehicle prior to the passage of the law is not bound to secure a license unless he thereafter acquires another such vehicle, in which case he must take a license for both vehicles by him owned. It seems to me that this too clearly violates the constitutional requirements of uniform operation of the statute and the guaranty of the equal protection of the laws to require citation of authorities.

The Secretary of State is charged with the duty of issuing licenses, keeping records, furnishing tags, etc., but no means are furnished him for securing the required equipment. He can pay for the necessary facilities out of the proceeds of the licenses, but he cannot collect the licenses until he has the facilities and he is prohibited from buying same without the necessary funds under section (17-1) Bates' Revised Statutes.

The various sections of the act are interdependent, and it cannot be presumed that any of them would have been passed without the passage of the other, and the failure of one of them means the failure of all.

Further than this, it is quite doubtful whether the state has a right to require municipal corporations to maintain streets and regulate the use thereof as to all other classes of transportation, and as to one class, grant exclusive rights and privileges, removed from municipal control or regulation.

I, therefore, advise that you neither incur any further liability nor take any other official action under this statute until a construction of it is secured or the question of its validity determined by some court of competent jurisdiction.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### TRUST COMPANY—FOREIGN—WHAT IS "DOING BUSINESS" IN OHIO.

Trust company of another state, accepting trust in said state involving real estate situated in Ohio, need not obtain authority to do business in Ohio.

May 4th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—In answer to the inquiry made by Messrs. White & Case of New York in their letter addressed to you under date of the 1st inst., which you have submitted to me for my views thereon, I beg to say that if a trust company in the state of New York accepts in that state a trust which embraces real estate in the state of Ohio, I do not deem it to be necessary that such trust company take out authority to transact business within this state, because the acceptance of such trust would not be, in my opinion, doing business within this state.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## PHYSICIANS' DEFENSE COMPANY MAY NOT BE ADMITTED TO DO BUSINESS IN OHIO UNDER MODIFIED CONTRACT.

May 11th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—The proposed form of contract of the Physicians' Defense Company of Ft. Wayne, Indiana, together with its application for authority to carry on business in the state of Ohio, and a copy of its charter as issued to it by the state of Indiana, have received my consideration. You desire a written opinion thereon relative to the right of this company to do and engage in its business within this state in view of the opinion of the Supreme Court of Ohio in the case of *State ex rel. Physicians' Defense Company v. Laylin*, 73 O. S., 90.

This same company on the 20th day of June, 1904, brought suit in mandamus in the court of common pleas of Franklin county, Ohio, against yourself as Secretary of State, to compel you to issue and deliver to it, agreeable to the provisions of Section 148d of the Revised Statutes, a certificate authorizing it to transact business in the State of Ohio as a foreign corporation. After trial had in the court of common pleas and the circuit court of this county, the case reached the supreme court on error and the writ prayed for by the relator, the Physicians' Defense Company, was refused by that court, the court holding that a foreign corporation created for the purpose of engaging in and carrying on the business of defending physicians and surgeons against civil prosecutions for malpractice in the manner and by the means which obtained with the relator company is not entitled to have or receive from the Secretary of State a certificate authorizing it to transact such business in this state for the reason that the business proposed is professional business, and as such is prohibited to corporations by section 3235 of the Revised Statutes of Ohio.

This would seem to fully answer the application now made by this same company, but it is contended that the contract proposed to be written and the powers sought to be exercised within the state of Ohio have been altered so as to remove the objectionable features criticised by the Supreme Court in the case cited, and further the company urges that the Circuit Court, in the case of the *State of Ohio ex rel. Bankers' Identification Company v. Laylin, Secretary of State*, in the form of contract proposed to be entered into by the Bankers' Identification Company, obviated the criticism of "engaging in professional business," and that the Physicians' Defense Company in the application now made has followed the methods adopted by the Bankers' Identification Company and therefore is not subject to the criticism made by the Supreme Court, and for which reason the Supreme Court denied the prayer of such company for a certificate authorizing it to transact its business within this state. These claims of the company necessitate an examination of the opinion rendered by the Circuit Court in the case referred to, and also the change of purposes of the corporation which it is proposed to carry out within this state.

The opinion expressed by the Circuit Court was upon an application of the Bankers' Identification Company to file an amendment to its articles of incorporation as provided by section 3238a R. S., and did not arise in any action challenging the right of such company to do or carry on its business within the state. In that case it was conceded by the Attorney General that in an action in mandamus to require the Secretary of State to file amendments to its articles of incorporation, duly adopted as provided in the procedure contained in Section 3238a R. S., the right of the company could not be challenged to do business under its original charter, and the company could require such amendments to its ar-



ticles to be filed in the office of the Secretary of State, and that in case of that officer's refusal so to do, mandamus was the proper remedy to compel him so to do.

The questions presented by this application of the Physicians' Defense Company were not involved in that action, and therefore it should not be considered as a precedent to in any way modify what has been said by the Supreme Court relative to this company. That court said (73 O. S., 99-100):

"The services necessary to be rendered by the company in the carrying out and performance of its said contract, being such, as in this state, may only be performed by a member of the legal profession, an attorney at law, who shall have been first duly authorized and licensed to perform the same, are *professional services*, and a business which in its conduct or transaction requires and permits only that character of service, is essentially and certainly, a professional business. \* \* \*

"The agents to be employed, are and must be, attorneys at law, and by the express terms of its contract they are to be employed and paid by the corporation. While, therefore, the services rendered by the persons thus employed are rendered to, and in defense of, the contract holder, they nevertheless are rendered for, and in legal contemplation are performed by, the corporation itself. If this be not the engaging in or carrying on of professional business, then it would be difficult to conceive how professional business could be engaged in or carried on by a corporation. We are of the opinion that the business proposed is professional business, and may not therefore be transacted or carried on by a corporation in the state of Ohio because of the prohibitive provisions of Section 3235, Revised Statutes."

Now, do the provisions contained in the company's charter remain subject to the criticism that its business is professional? I quote from Article II of its charter:

"The proposed plan of doing business is as follows: The association will issue to physicians and surgeons for stated and agreed compensation contracts by which *it* will undertake and agree to defend the holder of the contract at its own expense against any action brought against him for damages for alleged malpractice in relation to, or connection with services performed, or which should have been performed within the time covered by the contract. But the association will not in any defense contract issued by it assume, or agree to assume or pay any judgment for damages for malpractice rendered against the holder of such contract."

The purpose of the corporation, as recited in the application blank, made to you as secretary of state, are as follows:

"The business or objects of the corporation which *it* is engaged in carrying on or which *it* proposes to engage in or carry on in the state of Ohio, is to aid the medical profession in the practice of medicine and surgery by compensating attorneys and other persons employed by and rendering services to physicians and surgeons in the defense of civil prosecutions for malpractice."

The counsel for the company claim that because the attorneys are not to be employed by the association, but that the employment thereof is to be left to the physician or surgeon holding a contract with the company, hence such



provision has removed the criticism made by the court. The corporate articles provide that "it," the company, will undertake and agree to defend the holder of the contract, and the purposes, as recited in the objects of the corporation, contain the provision that the company shall pay the attorney so employed.

The Supreme Court on page 100 *supra* seems to have as severely criticised the payment by the corporation, as the employment. In other words, the scheme of the business of assuming to defend malpractice cases and to be responsible for the compensation of the attorneys engaged, is condemned by the court as being a professional business and inhibited by Section 3235, R. S.

I am of the opinion that the objections entered by the Supreme Court to this scheme have not been removed by the proposed change of plan now presented by this company, and that the scheme is still obnoxious to the criticisms then made, and that in view of that authority you should not issue to such company a certificate of authority to carry on such business within the state of Ohio.

I herewith return to you the papers transmitted to me.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### CORPORATIONS — PRIVATE — AMOUNT OF CAPITAL STOCK REQUIRED TO BE SUBSCRIBED BEFORE ENGAGING IN BUSINESS.

Corporation cannot avoid requirement of Section 3244 R. S., that ten per cent. of its capital stock must be subscribed before engaging in business, by "increasing" its authorized capital stock; ten per cent. of the total authorized capital stock after such increase must be subscribed.

May 14th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:— With the report for 1906, and check for \$10.00 of the Central Elevator Company, of Cleveland, you submit the following statement of facts upon which you desire the opinion of this department:

The Central Elevator Company was organized with an authorized capital stock of \$5,000. On September 7th, 1905, the company filed a certificate of increase to \$500,000. The report submitted shows that no part of the increase has been subscribed and the company has not now ten per cent. of its authorized capital stock subscribed.

Query: Should the company be obliged to have subscribed a sufficient additional amount to make ten per cent. of its present authorized capital and file a certificate to that effect in your office?

The certificate of September 7th, 1905, was by authority of Section 3263, R. S.

"A corporation for profit, after its original stock is fully subscribed for, and an installment of ten per cent. on each share of stock has been paid in, \* \* \* may increase its capital stock \* \* \* and a certificate of such action by the corporation shall be filed with the escretary of state."

Section 3242 of title II, chapter 2, providing for the creation and regulation of corporations, provides that the persons named in the articles of in-

corporation shall order books to be opened for subscriptions to the capital stock, and Section 3244 stipulates that "*as soon as ten per cent. of the capital stock is subscribed*" the subscribers of the articles of incorporation shall so certify in writing to the secretary of state *and thereupon* shall give notice to the stockholders to meet for the purpose of choosing directors.

Read together, these sections make it imperative that persons desiring to become a body corporate shall certify to the secretary of state that ten per cent. of the authorized capital stock *has been subscribed* before a legal board of directors may be chosen.

A statute must be understood to contain by implication, if not by express terms, all such provisions as may be necessary to effectuate its objects and purposes, or to make effective the rights, powers, privileges or jurisdiction which it grants, and also all such collateral and subsidiary consequences as may be fairly and logically inferred from its terms. (Black's Interpretation of Law, p. 62.)

To say that this corporation, through the means provided for an increase of capital stock, might carry on its business under a charter and an amendment thereto authorizing a total capital stock of \$500,000, only one per cent. of which is subscribed, would be to nullify the provisions of sections 3242 and 3244. It is a principle of law that whatever may not be done directly, may not be done indirectly, and consideration of the foregoing sections plainly indicates that the intent of the legislature was to provide that all corporations organized in Ohio must have ten per cent. of their capital stock subscribed and a certificate to that effect filed with the secretary of state, before exercising the powers granted by its charters.

Our courts held in *State ex rel. v. Insurance Co.*, 49 O. S., 440:

"The making and filing for the purpose of profit, of articles of incorporation in the office of the secretary of state, do not make an incorporated company; such articles are simply authority to do so. No company exists within the meaning of the statute *until the requisite stock has been subscribed* and paid in and the directors chosen."

It is my opinion that where the original authorized capital is less than ten per cent. of the total authorized capital after the increase is made, a certificate should be required that ten per cent. of the total authorized capital has been subscribed, before the corporation can assume to act under the authority of the increase.

In the case before us I advise the submission to The Central Elevator Company of the gist of this opinion and the requirement from it of the proper certificates. The Company then would be obliged to show in their 1906 report at least \$50,000 subscribed capital stock.

I return herewith the report and check submitted by you.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### BOND — OF EMPLOYE OF ADMINISTRATIVE BOARD.

Two bonds filed by superintendent of Ohio state reformatory cumulative.

May 15th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—Pursuant to your request I have examined the two bonds heretofore filed with you by J. A. Leonard as superintendent of the Ohio State Reformatory.



It appears that Mr. Leonard was elected superintendent of that institution under Section (7388-20) Bates' R. S., to "hold his office during the pleasure of the board." Upon qualification he filed a bond required by the succeeding section with personal sureties. Later on he filed another bond, also complying with the governing section with a surety company as surety thereon. Each of these bonds recognizes that the term of Mr. Leonard is indefinite and each bond runs for an indefinite period. I beg to advise you that under these circumstances the second bond is cumulative to the first and they are both valid and subsisting obligations. No method is provided by statute for a surety to be released from this bond and no such release can be had during the official term for which such bond is given.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### REGISTRATION — QUADRENNIAL.

Amendment of Sections 2926a and 2926h, R. S., relating to registration in presidential years, and changing minimum population of cities in which such registration required from 14,000 to 11,800, does not make it necessary that such registration should be had in cities having population of between 11,800 and 14,000, until date of next succeeding presidential election.

May 17th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:— Pursuant to your request I have examined the recent act of the General Assembly, 98 O. L., 212, amending Sections 2629a and 2629h of the Revised Statutes of Ohio, relating to registration of electors.

Section 2629a, as amended in 1904, required registration in cities of fourteen thousand population and over and *inter alia*, provided:

"No person shall be deemed or held to have acquired a legal residence in any ward or election precinct in any such city, for the purpose of voting therein at any election, general or special, nor shall he be admitted to vote at any election therein unless he shall have caused himself to be registered as an elector in such ward or precinct in the manner and at the time hereinafter required."

This language remains in the section as amended in 1906.

Does this language require registration this year in a city having a population sufficient to bring it within the act of 1906, but not within the act of 1904? The language quoted might seem to limit the right of suffrage to those who comply therewith. The right of suffrage, however, is given and defined by the Constitution, and registration laws are sustained only so far as they reasonably and impartially regulate the exercise thereof.

*Daggett v. Hudson, 43 O. S., 548.*

The manner and time of the registration referred to by Section 2926a is found in Section 2926h and so far as pertinent is as follows:

"In all cities which now or hereafter may have a population of eleven thousand eight hundred and less than one hundred thousand, a general registration for all the electors therein shall only be had at each and every presidential election, at the times and upon the days hereinbefore specified."



When by the amendment of 1904 the General Assembly made all cities of fourteen thousand population subject to the provisions of the registration laws and limited the exercise of the right of suffrage to registered electors the language quoted from Section 2926a was reasonable because the statute provided for a general registration during that year, that being a presidential year. The same language in the same section, as re-enacted in 1906, however, would seem to deprive an elector of a vote unless he had registered "in such ward or precinct in the manner and at the time hereinafter required," that is, unless he had registered in a presidential year. So literal a construction of this language is therefore out of the question. It would not be a regulation but a prevention of the exercise of the right of suffrage.

I am of the opinion, therefore, that no registration is required of the electors in the cities affected until 1908.

While no machinery is provided in the several cities for registration until the next presidential year, the cities are nevertheless, registration cities for all other purposes provided for by law. The deputy state supervisors of elections have power to locate voting places in new precincts and where the council of one of the cities has provided for a special election for the submission of a proposition to authorize the issuance of bonds "at the regular voting places" the election should be held at such places as have been designated by the deputy state supervisors.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### BOND — OF EMPLOYE OF ADMINISTRATIVE BOARD.

Officer chosen for indefinite term by administrative board must file new bond upon re-election; supplementary to opinion of May 15.

May 18th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR: — Since rendering you an opinion on May 15th, 1906, in the matter of the bonds of J. A. Leonard, superintendent of the Ohio State Reformatory, I am advised that since the filing of these bonds Dr. Leonard has been re-elected by the board of managers of that institution and that he has accepted such re-election and qualified thereunder. This, in my opinion, releases the sureties upon the old bond and requires Dr. Leonard to file a new bond.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### CORPORATION — PRIVATE — INCREASE OF PREFERRED STOCK.

Method by which preferred stock of private corporation may be increased.

May 23, 1906.

*HON. LEWIS C. LAYLIN, Secretary of State, Columbus, Ohio.*

DEAR SIR: — With the enclosed communication from Hon. Rufus B. Smith you inquire whether a corporation which has an issue of preferred stock, all of which has been taken and paid for, can in any way provide for an additional

issue of preferred stock without securing the consent of all of the present preferred stockholders, the charter providing that the preferred stockholders shall not have the right to vote?

Section 3235a provides inter alia:

“At no time shall the amount of preferred stock exceed two thirds of the actual capital paid in in cash or property.”

Subject to this limitation a corporation may, under authority of Section 3263 “upon the assent in writing of three fourths in number of the *stockholders* of any corporation representing at least three-fourths of its capital stock”, increase its capital by issuing and disposing of preferred stock. A certificate of such action shall be filed with the Secretary of State as provided in Section 3262.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### FUNERAL BENEFIT ASSOCIATIONS — FOREIGN.

Burial League of the United States, a foreign funeral benefit association, must comply with insurance laws of Ohio before admission to do business within state.

June 1, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR: — I beg to acknowledge the receipt of your letter of the 23d inst., with documents accompanying the same presented to you by the Burial League of the United States, which company has applied to your department for permission to qualify as a foreign corporation to do and carry on its business within the State of Ohio, pursuant to Sections 148c and 148d of the Revised Statutes.

In answer to your request for an opinion as to whether such association or corporation may be authorized to transact business in this state, by favor of the sections of the Revised Statutes cited, I refer you to the opinion of this department, given you under date of July 1st, 1904, relating to this same corporation in which I then expressed the opinion that the contract proposed to be written within the State of Ohio by such corporation, substantially amounted to insurance, and is forbidden by Section 289 of the Revised Statutes, unless such company qualifies to engage in such business as required by the statutes governing insurance companies.

This corporation is evidently of the opinion that the provisions of the act of March 31st, 1904 (97 O. L. 61) exempt it from the operation of the insurance laws of the state. The amendment referred to, so far as it is pertinent to this question, is as follows:

“Nor shall such sections, nor any other laws relating to insurance companies apply to any association formed for the exclusive purpose of providing for the payment of the funeral expenses of the members of such associations by assessments upon such members, when the amount of such payments on account of any one member does not exceed the sum of \$100, and when the membership of such association is limited to the county in which such association is organized.”



That amendment, as is evident, only applies to domestic associations, and not to foreign associations or corporations.

There is no reason apparent to me why the opinion of July 1st, 1904, should not be adhered to.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## ARTICLES OF INCORPORATION OF METROPOLITAN FUNERAL AND BURIAL ASSOCIATION.

Articles of incorporation of domestic funeral benefit association must indicate that payments of any one member shall not exceed \$100, and that membership thereof is confined to county.

June 6, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter enclosing articles of incorporation of The Metropolitan Funeral and Burial Association Company to be located at Cincinnati, Ohio, concerning which you desire an opinion of this department as to whether the same should be filed by you in your department as required by the statutes governing your duties as to the filing of articles of domestic corporations.

I have compared the purpose of this department as set forth in its articles with the requirements of the act of March 31st, 1904 (97 O. L. 61), which, so far as it is pertinent to the question here presented, is as follows:

“Nor shall such sections, nor any other laws relating to insurance companies apply to any association formed for the exclusive purpose of providing for the payment of the funeral expenses of the members of such association by assessments upon such members, when the amount of such payments on account of any one member does not exceed the sum of \$100.00, and when the membership of such association is limited to the county in which such association is organized.”

The purpose as defined in the articles of incorporation submitted is as follows:

“Said corporation is formed for the purpose of providing a suitable burial for persons desiring to procure the advantages thereof; said company furnishing everything incident thereto, under a contract with some undertaker, pursuant to a contract made with said persons in their lifetimes, who agree to comply with all the terms and conditions of the constitution and by-laws of said company.”

It will be observed by comparing the purpose of this association with the provisions of the act referred to that it does not incorporate therein the requirements of such act, to-wit: the limitation upon the amount of the payment, also limiting the membership thereof to the county in which the association is organized. For the reason that it does not so provide, I return these articles of incorporation not approved and advise that the same be not filed by you.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



# ARTICLES OF INCORPORATION OF CLYDE SAVINGS BANK AND TRUST COMPANY.

June 6, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:— Acknowledging the receipt of articles of incorporation of The Clyde Savings Bank and Trust Company that you have transmitted to this department for approval I beg to say I cannot approve the same as the corporation hereby sought to be created seeks, by its articles, to assume the powers of a savings and loan association, together with certain powers of safe deposit and trust companies. This cannot be done by a corporation with a capital stock of but \$60,000.

Section 3821gg R. S. provides that such powers cannot be exercised by a corporation unless it has a minimum capital of \$200,000.

I refer you to the opinion of this department under date of October 30th, 1905.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

# UNITED INVESTORS COMPANY OF NEW YORK MAY NOT ENGAGE IN BUSINESS IN OHIO.

June 11, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:— Acknowledging the receipt of yours of the 7th inst., enclosing inquiry from the Loomis-Woodward Company as to the legality of the business proposed to be engaged in within the State of Ohio by the United Investors Company of New York, I beg to say in answer thereto that the business done by this company, as shown on pages 7 to 13 of the circular matter which accompanies your letter, is in violation of the act of the General Assembly of the State of Ohio found in 93 O. L., 146, and otherwise designated as Sections (4427-1) to (4427-12) R. S. It therefore follows that the same cannot legally qualify to carry on such business within this state.

I return to you the circular matter referred to, together with the letter of the Loomis-Woodward Company addressed to you under date of June 5th, 1906.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

# CORPORATIONS — BANKING POWERS OF.

Banking corporation has no power to purchase its own stock save for debt.

June 18, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:— By your request the American Savings Bank Company of Toledo, Ohio, submitted to this department its report for 1906 and check for \$50.00, with the following statement of facts:

"Originally \$100,000.00 capital stock was subscribed, issued and outstanding with one-half (\$50.00 per share) paid in, being \$50,000.00 paid in; and we have always paid \$100.00 annual fees, but now it is different. Jan. 10, 1905, at our annual meeting of stockholders a resolution was passed to put our stock on a par basis and to give each stockholder the right and option to either pay in \$50.00 per share or surrender his or her certificate with 50% paid in and receive therefor, a certificate for half the number of shares with 100% paid in and as it now stands we have 500 shares issued and outstanding of \$100 each, making \$50,000.00 paid in capital. The old certificates have all been surrendered to, and accepted by, the company and in their place have been issued certificates in the amount of \$50,000.00, which is now the issued and outstanding capital stock of this company and is the only stock subscribed for."

The question of the purchase of its own stock by a manufacturing company was discussed in my opinion of May 3d, 1906, and it was there held that a corporation organized under our laws for manufacturing purposes could not purchase shares of its own stock and thereby reduce its outstanding capital. The only difference existing between the question there submitted and the one arising under the above statement of facts is that the American Savings Bank Company is a banking company doing a general banking business.

Section (3821-71) provides among other things:

"No banking company shall be the holder or purchaser of any portion of its capital stock \* \* \* unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, etc."

This is the legislative expression of the general law on this subject and it only remains to be determined whether the above facts constitute, in effect, a purchase of outstanding stock. When the above corporation showed \$100,000.00 of subscribed and issued capital stock each one of its subscribers was personally liable for \$50.00 more per share than he had paid in. The full amount of \$100,000.00 was not only subscribed for but was issued, the transaction in reality being a sale of shares of stock for one-half their face value.

In my opinion any means which this company may have adopted to relieve its subscribers from their additional liability, thereby effecting a redemption of a portion of its capital stock, was without authority or law and void as to creditors or other interested parties.

The law of Ohio prescribes but one way (Sec. 3264) for the reduction of capital stock, and the opinion of May 3d that no reduction of issued and outstanding capital may be made unless by a reduction of authorized capital may be followed in this case.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### WILLIS LAW — APPLICATION OF, TO BANKRUPT CORPORATION.

Corporation not liable for Willis law tax becoming due after filing of petition in bankruptcy.

June 18, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of June 14th enclosing communication of Ross W. Funck, trustee in bankruptcy of the Wooster Shale Brick Clay Company makes



inquiry as to whether said corporation having been declared a bankrupt February 20th, 1906, should pay the taxes due under the Willis law in May, 1906.

In the case of the First National Bank v. Aultman, Miller & Co., (opinion by Doyle, Referee) 12 A. B. R., 12, it was held:

“Where a state franchise tax does not become a charge against a corporation until after a petition in bankruptcy is filed against it, the trustee should not be ordered to pay the same as a tax.”

This opinion has been followed by this department whenever the question has been submitted. The only duty resting upon the trustees in bankruptcy, in such case, is that imposed by Section 8 of the Willis law, requiring that a certificate of the clerk of the court should be filed with the Secretary of State to the effect that said corporation has been declared a bankrupt and that its affairs are in process of liquidation. For the filing of this certificate the Secretary of State should collect from said trustee the sum of \$5.00 which should be taxed as costs in the proceeding and which shall have the same priority as other costs.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### CORPORATIONS — BANKING — CAPITAL STOCK OF.

State bank may not do business with less than \$15,000 subscribed capital stock.

June 20, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:— You have submitted the report for 1906 of The Ohio State Bank Company of Liberty Center, Ohio, with the information that the same is a state bank organized under the laws of Ohio. It appears from answer to question 6 of said report that the company has only \$10,000 of subscribed capital.

Section (3821-66) R. S., prohibits the organization of a state bank with an authorized capital of less than \$25,000; Section (3821-67) provides that at least 60% of the entire capital stock must be subscribed before said banking company may be engaged in business and Section (3821-68) that upon satisfactory evidence furnished to the Auditor, Governor and Secretary of State, that the previous sections have been complied with, a certificate shall be issued by your department to that effect.

I suggest the return of the report and the requirement from said company of of the evidence indicated.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### ELECTIONS — BOARD OF DEPUTY STATE SUPERVISORS AND INSPECTORS OF — POWER OF DEPUTY CLERK.

Deputy clerk of board of deputy state supervisors and inspectors of elections has power to administer oaths to election officers.

June 20, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

In response to yours of June 16th, 1906, I beg to advise you that where the law provides for a deputy officer such deputy may perform all and singular the



duties of his principal. Section 10, R. S. The law provides for a Deputy Clerk of the Board of Supervisors and Inspectors of Elections, and, in my opinion, such deputy has power to administer oaths to election officers as provided by Sections (2966-6), (2966-7) and 2926*c* of the Revised Statutes.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### FUNERAL BENEFIT ASSOCIATION — DOMESTIC.

Articles of incorporation of domestic funeral benefit association must indicate membership thereof is confined to county.

June 26, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR: — I return herewith articles of incorporation of The National Gold Bond Burial Company, advising you that the same does not comply with the provisions of the act of May 21st, 1904, (97 O. L., 61), which act was an amendment to the existing law governing such associations and exempting them from the operation of the laws governing insurance companies within the state.

The provisions to which I especially refer are as follows:

“Nor shall such section, nor any other laws relating to insurance companies apply to any association formed for the exclusive purpose of providing for the payment of the funeral expenses of the members of such associations by assessments upon such members, when the amount of such payments on account of any one member does not exceed the sum of \$100, and *when the membership of such association is limited to the county in which such association is organized.*”

The third paragraph of the articles of incorporation of this company should recite that the membership of the association is proposed to be limited to the county (Hamilton) in which the association is organized.

For these reasons I herewith return the same without my approval.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### RAILROAD COMMISSION — OFFICE SUPPLIES OF.

Office supplies of railroad commission must be furnished by secretary of state.

August 3, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR: — In response to your request of the 2d inst., I have examined the act creating the Railroad Commission, (98 Ohio Laws, 342), and observe that it apparently contemplates the Adjutant General shall furnish it with such office supplies as may be needed. Comparison of the act with the Wisconsin law, from which the Ohio statute was almost literally taken, shows that the Adjutant General is substituted only for an officer who has no place in the Ohio laws, and who appears, under the laws of Wisconsin, to have control not only of the State House

but of supplies. The conclusion I have reached is that the Adjutant General **has** only such powers, under this particular act, as are generally conferred upon **him** by law and has, therefore, nothing to do with stationery and similar supplies needed by the Commission. Sections 137 and 138 of the Revised Statutes of Ohio give the Secretary of State authority to provide stationery "and other articles as may be necessary" to state officers. The Railroad Commission and its officers are, in my opinion, such state officers and entitled to all the privileges of this section.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### TOWNSHIP TRUSTEES — VACANCY IN OFFICE OF.

Vacancy in office of township trustee must be filled by appointment by justice of the peace whose last commission bears the earliest date; Section 1452 R. S. construed.

August 8, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your request for an opinion of the proper construction of Section 1452 of the Revised Statutes. It appears from your inquiry that a vacancy exists in the office of township trustee; that both justices of the peace were elected at different times prior to 1904, and both elected for the terms now being served in the fall of 1904. The section mentioned authorizes a vacancy in the office of township trustee to be filled by appointment by that justice "holding the oldest commission." In my opinion this does not refer to a commission earlier than the one under which the justice is now holding and it is entirely immaterial as to what the terms were served or commissions held by either justice prior to the current term. Both of them seem to have been last elected in 1904. They may have been commissioned at different times, however. If so the township clerk should ascertain which commission bears the earlier date and notify the holder thereof to make the appointment. If both commissions bear the same date the justice "oldest in years" should make the appointment.

Yours very truly,

W. H. MILLER,  
*Ass't Attorney General.*

#### ELECTIONS — PRIMARY — APPLICATION FOR, BY COUNTY EXECUTIVE COMMITTEE OF POLITICAL PARTY.

It is the duty of state supervisor of elections and board of deputy state supervisors of elections to recognize in all matters in which it is authorized to act the county executive committee of a political party designated by state central committee of such party as the rightful committee; board of deputy state supervisors of elections has no authority to conduct county primary election at expense of county upon application of county executive committee other than that designated as the rightful committee by the state central committee of such party.

August 27, 1906.

HON. LEWIS C. LAYLIN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your communication in which you submit the following inquiries is received:



*First:* "When the State Central Committee of a political party has determined which of two rival county committees is the 'rightful executive committee' of such party under the provisions of Section (2966-3) of the supervisory election law, is it the duty of the State Supervisor of Elections and the County Board of Deputy State Supervisors of such county to recognize such county executive committee in all matters where the county executive committee of such political party is authorized by law to act?"

Section (2966-3), providing for the appointment and qualification of Deputy State Supervisors, contains a provision whereby the State Central Committee of the political party entitled to the appointment, in cases where recommendations are made by more than one county executive committee, shall determine which of the county executive committees making the recommendations is the rightful executive committee, and shall certify such determination to the State Supervisor of Elections. When the State Central Committee, acting under this provision, determines which committee is the rightful committee, it is the duty of the State Supervisor of Elections and the County Board of Deputy State Supervisors of the county, in my opinion, to recognize such executive committee as the rightful executive committee in all matters where the county executive committee of such political party is authorized by law to act.

*Second:* "Is there any authority of law given a County Board of Deputy State Supervisors to conduct a county primary under Sections 2916 and 2917 of the Revised Statutes and charge the expense thereof to the county, where application thereof is made by a county executive committee of a party other than the 'rightful county executive committee' of such party as determined by the State Central Committee of such party under Section (2966-3) of the supervisory election law?"

Sections 2916 and 2917 contemplate but one county executive committee for each political party, therefore where the State Central Committee, under the provisions of Section (2966-3) have determined between rival county executive committees in a county which is the rightful county executive committee, said county executive committee so determined to be the rightful county executive committee, is in my opinion, the only committee authorized to act under Sections 2916 and 2917 of the Revised Statutes.

Very truly yours,

W. H. MILLER,

*Ass't Attorney General.*

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#### SAFE DEPOSIT AND TRUST COMPANY—QUALIFICATION OF, FOR DOING BUSINESS.

Safe deposit and trust company may not engage in business without complying with provisions of Section 3821a, 3821b and 3821c, R. S.

September 19th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—Replying to yours of the 18th inst., enclosing a letter from Mr. Walter G. Kirkbride, attorney at law, Toledo, for my consideration, I desire to



say in answer thereto, that the powers conferred upon safe deposit and trust companies, as contained in Sections 3821a, 3821b and 3821c of the Revised Statutes, are exclusive of other forms of corporations, and such should not be permitted to be organized to execute such powers, unless subject to the restrictions and limitations obtained in the sections referred to.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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# WILLIS LAW—APPLICATION OF, TO GREAT LAKES TOWING CO.

September 26th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—You have submitted to me the report of The Great Lakes Towing Company with check for \$158.50, and inquire whether this company is liable under the Willis law?

It appears from the report of this corporation that it is organized under the laws of New Jersey and I assume that it has complied with Section 148c and 148d and is regularly admitted to transact business in this state.

In answer to question 7 of the report, they claim to be engaged in a "general towing and wrecking business on the Great Lakes and their harbors." In a former opinion from this department it was held that all corporations doing business in this state were liable for franchise taxes, either under the Cole law or the Willis law, and that if such company did not come within the definition of public service corporations as provided under the Cole law then such corporation was liable and should make report under the Willis law.

In this case it does not appear that this company is engaged "as a *common carrier* in the transportation of passengers or property by boat" and does not, therefore, come under the head of water transportation companies.

I am of the opinion that The Great Lakes Towing Company is a foreign corporation doing business in Ohio and should report under the Willis law. In the report enclosed it occurs to me that this company does not set out the particular location and value of its property either in or out of Ohio, with sufficient definiteness for you to determine whether the proportion claimed by it is a just one. I would recommend in this case that the report be returned and a detailed statement secured before fixing the amount of the fee.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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# SAFE DEPOSIT AND TRUST COMPANY—CAPITAL STOCK OF—ARTICLES OF INCORPORATION OF AMERICAN BANKING AND TRUST COMPANY.

October 6th, 1906.

*Hon. Lewis C. Laylin, Secretary of State.*

DEAR SIR:—Replying to yours of the 2nd inst. containing the communication addressed to you by The American Banking Company of Sandusky, I would say that if the proposed articles of incorporation of the new company, to-wit. The American Banking and Trust Company, contains in its purpose clause the language

as quoted in its letter of the 2d inst., to-wit, "The business of a safe deposit and trust company as described in Sections 3821a and 3821b of the Revised Statutes of the State of Ohio, and to enjoy all the privileges granted to such companies by said Sections 3821a and 3821b," the same could be done with a capital stock of less than \$200,000, but amounting to at least \$50,000, without violating the provisions of the Revised Statutes governing safe deposit and trust companies. This is perfectly consonant with the opinion expressed by this department to you under date of June 5th, 1905. (Op. Atty. Gen., 1905, p. 41.)

I do not here pass upon the question as to whether such change of corporate powers can be effected pursuant to the provisions of Section 3238a R. S., by amending its articles, or whether the change would have to be made by a re-incorporation.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### CORPORATIONS — BANKING — BRANCH BANKS.

Branch banks may not be established in Ohio.

October 9th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR — Acknowledging the receipt of the inquiry presented by you accompanying the letter of Mr. E. O. Murray of New Paris, Ohio, I beg to say that in my opinion there is no authority for establishing branch banks within this state.

Section 3236, R. S., makes it incumbent upon each corporation to establish a situs for every corporation organized under the laws of the State of Ohio, and this does not authorize the location of branch corporations (banks) in any other situs than that named in the certificate issued by your department.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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#### ELECTIONS.

County commissioners may not submit to electors question whether or not county library shall be constructed.

October 12th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of October 12th requests my opinion as to the authority of county commissioners to submit to the voters of the county the question whether or not a county library shall be constructed in the county.

I am unable to find any authority for the submission of this question to the voters of the county.

Section 891a, R. S., vests in the county commissioners themselves the authority to decide whether a gift for library purposes shall be accepted and a tax levied for a library fund. The question must, therefore, be decided by the commissioners and may not be referred to the voters.

Very truly yours,

W. H. MILLER,



CORPORATIONS — BUILDING COMPANY — PURPOSE — AMENDMENT  
OF ARTICLES OF INCORPORATION.

Corporation organized under Section 3884a, R. S., for the purpose of acquiring real estate for construction of certain buildings may not by amendment to articles of incorporation so modify such purpose as to acquire power of dealing generally in real estate, as defined and limited by Section 3235, R. S.

December 8th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am in receipt of yours of the 7th inst. enclosing the letter of Mr. Powel Crosley, attorney-at-law of Cincinnati, for my consideration and answer. It presents the inquiry whether, by amendment, a corporation organized as a building company pursuant to the provisions of Section 3884a, R. S., can change its purpose by a proceeding under Section 3238a R. S., to that of a corporation to deal in real estate and limited to twenty-five years' existence, as provided by Section 3235, R. S.

Section 3884a, R. S., provides for the organization of a corporation for the single purpose of constructing and maintaining buildings to be used for certain specific purposes, and limits such corporation, in its authority to acquire real estate by purchase or lease, to the purpose above set forth. Such corporation is also limited in the terms of its leases and methods of dealing in relation thereto, to those contained in the above section.

It is proposed to engraft upon such corporation, as supplemental powers, those powers contained in Section 3235, R. S., relating to corporations created for the purpose of buying or selling real estate and giving to such corporations the right of existence for a term of twenty-five years from the date of their articles of incorporation. This change is proposed to be effected under the procedure mentioned in section 3238a, R. S. The obstacles presented by this proposed plan are: (1) those of method; (2) those of powers.

The method provided in Section 3238a by which it is proposed to effect this object, is not applicable to such change, alteration, or enlargement of the original purpose of a corporation organized pursuant to Section 3884a. Section 3238a, R. S., provides, *inter alia*, that

“Nothing in this supplemental section contained shall authorize a corporation, by amendment, to increase or diminish the amount of its capital stock; nor shall any corporation, by amendment, change, substantially the original purpose of its organization.”

In my opinion the particular corporation under consideration, The Queen City Realty Company, is limited by the act under which it was created to the single, definite purpose therein recited. It was not empowered thereby to buy or sell real estate generally, but for the single purpose of constructing and maintaining buildings to be used for hotels, storerooms, offices, warehouses and factories, and its power to purchase or lease real estate was for such purpose alone. A general authority to acquire, hold, and dispose of real estate for all manner of purposes, is not a mere enlargement of the purpose to acquire real estate for the definite purpose before mentioned, and subject to the restraints contained in Section 3884a, but is a substantial change from the original purpose for which the corporation was organized, therefore it would follow that the procedure out-



lined in Section 3238a of amending the articles of a corporation is not applicable to such change as has been proposed by the above named company.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

TOWNSHIP TRUSTEE — VACANCY IN OFFICE OF — METHOD OF FILLING AS AFFECTED BY EXTENSION OF EXISTING TERMS OF JUSTICES OF THE PEACE.

In determining which justice of the peace within a township holds "oldest commission," so as to authorize him to appoint to fill vacancy in office of township trustee, under Section 1452, R. S., justice holding office by virtue of extension of term by constitutional amendment (article XVII, Section 3) deemed to hold under commission for term thus extended, regardless of reappointment to fill supposed vacancy, and issuance of new commission.

December 17th, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—It appears from your letter of December 13th that a dispute has arisen between two justices of the peace as to which one was entitled, under Section 1452, R. S., to make an appointment to fill a vacancy in the office of township trustee.

Mr. McFadden was elected in November, 1905, and was commissioned in December of that year. The three-year term for which Mr. Brophy was elected and for which he received a commission, expired in April, 1906. Since he was in office at the time of the adoption of Article XVII, Section 3, his term was thereby extended until his successor should be "elected and qualified." There was, therefore, no vacancy in his office at the expiration of his three-year term, and the appointment to fill a supposed vacancy and the new commission issued pursuant thereto, were of no effect. Mr. Brophy did not hold after April, 1906, by virtue of any new election or appointment requiring a new commission to be issued as evidence thereof under Section 83, R. S. His title to the office was sufficiently evidenced by the commission of 1903, and the constitutional amendment of 1905.

Section 1452, R. S., requires the justice of the peace "holding the oldest commission" to make appointments to fill vacancies in the office of township trustee. The words quoted refer to the oldest active commission, the oldest commission which, taken by itself or read in connection with the statutes and the constitution, evidences a right to hold office at the time of the occurrence of the vacancy in the office of trustees.

I am therefore of the opinion that Mr. Brophy held the oldest commission and was entitled to make the appointment in question.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

ELECTRICITY — AMENDMENT OF ARTICLES OF INCORPORATION OF STEAM RAILROAD COMPANY SO AS TO AUTHORIZE USE AND SALE OF.

Steam railroad company may so amend its articles of incorporation as to authorize use of electricity as motive power; may not so amend as to authorize sale of electric light, heat and power.

December 21st, 1906.

*Hon. Lewis C. Laylin, Secretary of State, Columbus, Ohio.*

DEAR SIR:—Replying to yours of the 18th inst. accompanying the letter of D. H. James, President of the Toledo and Columbus Railway Company, I beg to say the inquiry you have submitted to this department, which is presented by Mr. James, with relation to the Toledo and Columbus Railway Company as to the right of that company to amend its articles of incorporation pursuant to the provisions of Section 3238a, R. S., so as to authorize such corporation to operate a railroad by electricity or other motive power whose purpose clause now provides that such corporation is formed for the purpose of operating a railroad “by steam or other motive power.” The proposed change also is sought to include:

“Manufacturing, selling and furnishing electric light, heat and power for the use of said corporation or to any persons, firm or corporation.”

As to the right of the railroad company to operate its road by electricity as a motive power in addition to that of steam, it is seemingly authorized by Section (3310-1), R. S., which is as follows:

“Upon any railroad heretofore or hereafter constructed in this state, electricity may be used as a motive power in the propulsion of cars; provided, however, that before any line of poles and wires shall be constructed through or along the streets, alleys or public grounds of any municipal corporation, plans of such construction shall be submitted to or approved by the council of such municipal corporation.”

This act of the General Assembly was passed May 21st, 1894, and indicates the policy of the General Assembly to authorize railroad companies, meaning thereby companies organized for the purpose of owning and operating steam railroads, to acquire the right to use electricity as a motive power in the propulsion of its cars. If this power is not conferred upon such corporation at the time of its organization it could be assumed by it following the procedure outlined in Section 3238a, for it does not change substantially the original purpose of its organization, when that purpose has been enlarged by the General Assembly as provided in the statute above cited.

As to the second inquiry presented by the letter of the railway company, the power to manufacture, sell and furnish electricity, light, heat and power to other persons, firms or corporation, is plainly a substantial variance from the original purpose contained in the articles of the railroad company. The case of *State ex. rel. v. Taylor*, Secretary of State (55 O. S., 61) seems to deny this right. There a company was incorporated for the purpose of engaging in the business of manufacturing gas and electricity, and furnishing gas for light, heat and power and for such other purposes as may be used by the citizens and corporations in Steubenville and its vicinity. It was sought by the procedure contained in Section 3238a, R. S., to enlarge this purpose to that of a gas, electric and traction company, with power to acquire, own, operate, lease and maintain a street railway in the city of Steubenville, to be operated by electricity or other motive power. Such change in its purpose clause, by amendment, was denied because it “would change, substantially, the original purpose for which the company was organized.”

Since the decision above cited, an act of the General Assembly was passed (93 v. 139; 95 v. 391) authorizing corporations or companies maintaining and operating a street railroad or a railroad operated by electricity, to acquire the

franchise of a company organized to supply electricity, natural or artificial gas, or both electricity and natural and artificial gas, for power, light, heat or fuel purposes; but having given consideration to the intention of the General Assembly expressed in this act, I am of the opinion that it does not extend to authorizing a corporation organized for the purpose of operating a steam railroad to employ the additional power conferred upon street railroads, or railroads operated by electricity, by the act above cited.

I therefore express the opinion that the latter power is denied to such corporation.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



(To the Auditor of State.)

AUDITOR — COUNTY — FEES OF.

Whether county auditor making settlement with auditor of state after amendment of Section 1069, R. S., effective February 13, 1906, entitled to fee of one per cent. of collections for school fund, as allowed by said section in its original form.

February 16th, 1906.

*Hon. W. D. Guilbert, Auditor of State, Columbus, Ohio.*

DEAR SIR:—Under date of February 15th, 1906, you inquire whether the Auditor of State should be governed by Section 1069 as amended February 13th, 1906, or by the provisions of that section prior to its amendment, in making settlement with county auditors.

In the absence of the Attorney General your inquiry has been referred to me, and I beg to advise you that in as much as Section 1069 in its original form only provided that the county auditor "shall be allowed \* \* \* on moneys collected on levies made by school boards, one per cent., etc.," on settlement with both the County Treasurer and the Auditor of State, a settlement with the county treasurer only would not be within the letter of the law and in case any settlement had not been made with the State Auditor until after the amendment of this section, there is no authority for the State Auditor to allow the one per cent. theretofore allowed County Auditors for school collections.

The question whether the immediate application of the amended statute violates any of the constitutional rights of any officer is a judicial one to be determined by the courts if occasion arises.

Very respectfully,

R. J. MAUCK,  
*Special Counsel.*

INHERITANCE TAX — DIRECT — REPEAL OF.

Effect of act repealing direct inheritance tax law as to estates in which inventory not filed prior to April 16, 1906.

April 18th, 1906.

*Hon. E. M. Fullington, Deputy Auditor of State, Columbus, Ohio.*

DEAR SIR:—I have yours of April 17th, 1906, requesting my opinion of the application of the act repealing the Direct Inheritance Tax Law to pending claims of the state. The repealing act is as follows:

"The act entitled 'An act to impose a tax upon the right to succeed to, or inherit property,' passed April 25th, 1904, 97 O. L., 398, 400, be and the same are hereby repealed, except as to estates in which the inventory has already been filed at the date of the passage of this act."

The legislature in framing this repealing act seemed to go upon the theory that unless some saving clause were attached, no right would remain in the state to collect any taxes upon estates in process of settlement at the time of the repeal. It would seem then that it was sought by this act to do something less than unqualifiedly to repeal the Direct Inheritance Tax Law. If, however, unqualified repeal of the law would leave

the state with the right to collect taxes theretofore accrued, certainly anything less than unqualified repeal could not have greater effect in destroying or abandoning the right of the state.

The question that, accordingly, arises, is: What would have been the effect of unqualified repeal? The answer is found in Section 79 of the Revised Statutes:

“Whenever a statute is repealed or amended, such repeal or amendment shall in no manner effect (affect) pending actions, prosecutions, or proceedings, civil or criminal, and when the repeal or amendment relates to the remedy, it shall not effect (affect), pending actions, prosecutions, or proceedings, unless so expressed; nor shall any repeal or amendment effect (affect) causes of such action, prosecution, or proceeding, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing act.”

Such unqualified repeal could not affect the state's cause of action, then, according to this section, unless the repealing statute “otherwise expressly provided.” In my opinion the repealing statute does not otherwise expressly provide. It may be true that the general assembly intended to reward negligent trustees who had failed to file inventories and abandon the state's claim against such and to preserve the claim against those who had promptly complied with the statutory requirement for filing inventories, but, if so, it should have expressly so provided. Its attempted saving of one class of rights not requiring saving can not be construed into a relinquishment of another class of rights.

Until, therefore, some competent court determines that the general assembly has by this act relinquished the state's claim for taxes, I advise that you proceed with the collection of such taxes as accrued under the repealed law prior to April 16th, 1906, the day when the passage of the repealing act was perfected.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### DOW TAX — APPLICATION OF.

Application of Dow tax to following cases:

1. Office selling by order from warehouse located outside state.
2. Dealer residing in state and selling exclusively to customers outside state.
3. Same, when goods are purchased and business transacted on premises owned by another person subject to the tax.
4. Same, when such extra-state business is carried on as a “department” of a general business.

April 25th, 1906.

*Hon. W. D. Guilbert, Auditor of State, Columbus, Ohio.*

DEAR SIR:— You have requested my opinion upon several questions as to the application of the Dow law to wholesale liquor dealers in certain specified cases.

The first question presented is substantially as follows:

A company owning a distillery in Pennsylvania has an office in Cincinnati, where orders are taken and payment received for sales of whiskey, but all whiskey sold at the Cincinnati office is shipped from the Pennsylvania warehouse to the customer direct. Is such company liable to the Dow tax?



The sale at the office within this state of intoxicating liquors stored in a warehouse situated in another state, and shipped from said warehouse direct to the purchaser in this state, does not make such office subject to the Dow tax.

Brooks v. Van Ness, 38 B. 262. Affirmed without report, 57 O. S., 642.

"The negotiation of sales of goods which are in another state for the purpose of introducing them into the state in which the negotiation is made is interstate commerce."

Robbins v. Shelby Co., 120 U. S., 497.

Emert v. Mo., 156 U. S., 319.

Toledo Commercial Co. v. Glenn Mfg. Co., 50 O. S., 221.

Vance v. Vandercook, 170 U. S., 444.

"Equally well established is the right to send liquors from one state to another, and the act of sending the same is interstate commerce, the regulation whereof has been committed by the Constitution of the United States to Congress, and hence, that a state law which denies such a right, or substantially interferes with or hampers the same is in conflict with the Constitution of the United States."

451. "The interstate commerce clause of the constitution guarantees the right to ship merchandise from one state into another, and protects it until the termination of shipment by delivery at the place of consignment, and this right is wholly unaffected by the act of Congress which allows state authority to attach to the original package before sale but only after delivery."

445. But "by virtue of the act of congress the receiver of intoxicating liquors in one state sent from another, can no longer assert a right to sell in defiance of the state law in the original package, because Congress has recognized to the contrary."

Scott v. Donald, 165 U. S., 96, 98.

Emert v. Mo., 156 U. S., 311.

Second—"B is a wholesale liquor dealer residing and doing business in Ohio, and paying the U. S. government tax. He sells nothing to customers who reside within Ohio. Is he liable for the Dow law tax?"

In my opinion, B. is engaged exclusively in interstate commerce and is not subject to the tax.

Third—"B. is a wholesale liquor dealer residing in Ohio and paying the U. S. government tax. He purchases all his supplies of A., another wholesale dealer, and has his office upon the premises used by A. and described in A's statement to the auditor. A. has paid and will continue to pay the Dow law tax. B. sells no goods to customers who live in Ohio. He bills in his own name the purchases from A. direct to his customers (who are all outside of Ohio.) Is B. liable for the Dow law tax, or is he exempt because covered by the clause 'Class 4' in the blank 'Liquor Traffic Tax Form 9' or otherwise?"

B. is not liable, since he makes no sales to customers within this state.

Fourth—"A. is a wholesale liquor dealer doing business in Ohio and has paid the Dow tax. He does a portion of his business as a separate department, using a different name for this portion, calling it 'B. & Co. Department.' He has paid the U. S. government tax to secure stamps in this name, 'A., B. & Co



Department.' He carries on all his business, including (B. & Co. Department) in the same premises which are described in his Dow law tax return. Has A the right to bill the goods as from himself and payable to himself, but adding the words 'B. & Co. Department' without paying an additional Dow law tax provided he makes no sales of goods so stamped in Ohio?"

The question assumes that A. is the sole owner of the entire business transacted on the premises, for which he has paid the Dow tax. The fact that he carries on certain departments of his business in another name does not make him liable to an additional tax. This also disposes of your fifth question.

Very truly yours,

C. P. HINE,  
*Assistant Attorney General.*

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#### CLERK OF COUNCIL.

Duties of clerk of council — "corporation clerk."

May 15th, 1906.

*Hon. W. D. Guilbert, Auditor of State, Columbus, Ohio.*

DEAR SIR:— Referring to the letter of Edwin Henderson, city clerk of the city of Cincinnati, addressed to you under date of the 9th inst., and transmitted to me for an opinion upon the questions therein presented, I beg to say, the new municipal code imposes upon the clerk of council, otherwise known as "corporation clerk," the custody of the assessment roll and records of assessments and documents pertaining thereto in order that he may perform the duties directed by sections 68, 69, 94 of the municipal code and related statutes.

I herewith return to you the letter of Mr. Henderson.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### DEPARTMENT STORE.

Whether department store can receive deposits without being subject to Sections 3817, et seq., requiring reports to auditor of state.

May 29th, 1906.

*Hon. W. D. Guilbert, Auditor of State, Columbus, Ohio.*

DEAR SIR:— I am in receipt of your inquiry as to the opinion of this department upon the question raised in the letter of Mr. John C. Hutchins, attorney-at-law of Cleveland, which briefly stated, is as follows:

Can a department store organized for the purpose of conducting a commercial business, as part of such business receive money on deposit from customers and others on which it agrees to pay interest, without subjecting such company to the requirements of Sections 3817 and 3818, R. S., and other related sections?

Section 2758, R. S., defines banking as follows:

"Every company, association or person not incorporated under any law of this state or the United States for banking purposes, who

shall keep an office or other place of business and engage in the business of lending money, *receiving money on deposit*, buying and selling bullion, bills of exchange, notes, bonds, stocks or other evidences of indebtedness with a view to profit shall be deemed a bank, banker or bankers within the meaning of this chapter."

The power to receive deposits is one of the chief functions of banking, as is evidenced by the special statutory authorization contained in Sections 3799, 3804 and other related sections of the Revised Statutes.

While sections 2762, 3817 and 3818; R. S., requiring certain forms of reports to be made to your department, seek to include institutions of all descriptions engaged in banking, it is not free from doubt that such institutions as are mentioned in the foregoing question, are included therein.

In my opinion, these sections should be construed by you to include all associations receiving deposits, evidenced by pass books, and paying interest thereon, until some court, in an action instituted to test the question, has decided otherwise.

Whether the "department store" is a person, partnership or corporation is not stated.

Whether, if it is a corporation, organized for the purpose of conducting a commercial business, it may lawfully receive deposits and agree to pay interest thereon is a question which has not been presented, and is, of course, not answered by this opinion.

Very truly ours,

WADE H. ELLIS,  
*Attorney General.*

#### DOW LAW — APPLICATION OF — LOCAL OPTION.

Brewery located in "dry" township may not sell beer at brewery or in neighboring "dry" city; may sell at distributing place in "wet" territory, subject to tax.

June 8, 1906.

HON. W. D. GUILBERT, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—In reply to further inquiries from your office as to the interpretation of the Dow Law and the local option laws, I beg leave to submit the following opinion:

First: *A brewing company, located in a township which has voted dry under the township local option law, cannot lawfully make sales of beer as a beverage at the brewery.*

It has been held by the Supreme Court of this state in the case of *Stevens v. State*, 61 O. S., 597 that:

"The sale of beer as a beverage in any quantity, whether by the manufacturers or not, is prohibited in a township where the people have availed themselves of the provisions of the local option law, passed March 3, 1888. '85 v. 55."

Second: *A brewing company, whose plant is located outside the limits of a municipality which has voted dry under the Beal Law, cannot lawfully make sales of beer as a beverage within the limits of such municipality.*

Such brewing company is clearly prohibited by Section (4364-20b) from



making sales of intoxicating liquors as a beverage within the limits of such municipality.

Although the executory contract of sale, i. e., the order for the goods, and the agreement by the brewer to furnish them, is made at a brewery, in wet territory, yet, if the brewing company retains the title to the goods until they are delivered to the purchaser in a dry township, or in a municipality which has voted dry under the Beal Law, the executed sale takes place at the point of delivery and the law is violated.

Commonwealth v. Greenfield, 121 Mass., 40;  
Village of Bellefontaine v. Vassaux, 55 O. S., 321, 330, 331;  
Doster v. State, 93 Ga., 43.

If, however, the sale is completed so that the title passes outside the limits of the dry municipality or township, the delivery to the purchaser, within the dry township or municipality, of his own property, although the delivery may be by the brewer's wagon, does not constitute a sale in violation of the local option laws.

Dunn v. State, 82 Ga., 27;  
Herron v. State, 10 S. W., 25;  
State v. Hughes, 22 W. Va., 743;  
Commonwealth v. Hess, (Pa.), 17 L. R. A., 176;  
Village of Bellefontaine v. Vassaux, 55 O. S., 330-33;  
Harding v. State, 97 N. W., 194.

Third: *A brewing company must pay the Dow Tax for a warehouse located elsewhere than at the manufactory if sales are made from such warehouse.*

If intoxicating liquor is shipped to the warehouse and kept on hand for sale by local agents, the manufacturer is liable to the tax. As stated in *Brewing Co. v. Talbot*, 59 O. S., 516:

"If the customers had made their purchases or received their property at the building, it would undoubtedly have been a place of traffic. Instead of conducting the business in that way the agents who had charge of the building and contents obtained orders from the customers which they filled by hauling the beer from the building to the customers. This was merely a matter of convenience to the purchaser, or inducement to buy. The building where the property sold was situated, and from which it was delivered, was, for every practical purpose the place where the business was carried on."

Although the executory contract of sale is made at the manufactory, if the sale is executed by the setting aside of the specific goods, which are the subject of the sale, at the warehouse, the sale takes place at the warehouse and the manufacturer is liable to the tax for the business so carried on. The sale is not completed while any act remains to be done on the part of the seller, such as setting apart and identifying the specific goods which are the subject of the sale from other goods belonging to the seller.

Bonham v. Hamilton, 66 O. S., 82;  
Village of Bellefontaine v. Vassaux, 55 O. S., 323.

The questions which you have presented do not involve a construction of the Brannock Law or the Jones Law, in any particular. Nothing in this opinion



has, therefore, any reference to sales of intoxicating liquors in residence districts of municipalities which have voted dry under either of said laws.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

### INHERITANCE TAX — DIRECT — REPEAL OF.

When act repealing direct inheritance tax law became effective.

July 31, 1906.

HON. W. D. GUILBERT, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—I have your inquiry relating to the claim of the state for inheritance taxes against the estate of Henry C. Herbig, late of Coshocton County, Ohio, who died April 15th, 1906. It appears that the only question raised in this cases is as to whether or not the law had been repealed at the time of the death of the decedent. The claim made, as I understand it, is that the repeal of the law became effective on the 14th of April. The veto amendment to the constitution provides that in case any bill has passed both houses and been presented to the Governor and

“is not signed and is not returned to the house wherein it originated and within ten days after being so presented exclusive of Sunday and the day said bill was presented, said bill shall be law as in like manner as if signed, unless final adjournment of the General Assembly prevents such return, in which case shall be law, unless objected to by the Governor and filed, together with his objection thereto in writing, by him in the office of the Secretary of State within the prescribed ten days.”

Inasmuch as the act repealing the direct inheritance tax law was not presented to the Governor until April 3d, bearing in mind that Sundays are not counted as part of the ten days, it seems clear that the repealing act did not take effect until April 16th, 1906.

As you are aware, however, the question of collection of taxes unpaid at the time of the repeal is involved in a case now pending in the Supreme Court, a determination of which will be had shortly after the beginning of the fall session of the court.

As far as the single question involved in this case is concerned, however, my opinion is that you may safely proceed upon the assumption that the repeal was not effective until April 16th, 1906.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

### INHERITANCE TAX — COLLATERAL.

Application of collateral inheritance tax to children of nephews and nieces of decedent.

August 1, 1906.

HON. W. D. GUILBERT, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—I have had under consideration your inquiry as to whether legacies to sons and daughters of nephews and nieces were subject to the pro-

visions of the collateral inheritance tax law. The excepted classes under this statute are described as follows:

"Father, mother, husband, wife, brother, sister, niece, nephew, lineal descendant, adopted child, or person recognized as an adopted child and made a legal heir under the provisions of Section 4182 of the Revised Statutes of Ohio, or the lineal descendants thereof, or the lineal descendants of any adopted child, the wife or widow of a son, the husband of the daughter of a decedent."

The statute in the main follows the statute of the State of New York, the principal difference being in the number of legatees exempt. The phrase "lineal descendant" in the New York law has been frequently interpreted to apply to the direct descendants of the decedent only.

Matter of Jones, 5 Dem. 30;  
Matter of Smith, 5 Dem. 90;  
Matter of Miller, 5 Dem. 132;  
Ibid, affirmed, 45 Hun 244.

The only question then is whether the phrase "or the lineal descendant thereof" modifies all of the preceding words describing the exempted classes or only the class immediately preceding described as "a person recognized as an adopted child and made a legal heir under the provisions of Section 4182 of the Revised Statutes of Ohio." In my opinion the phrase quoted relates only to the class last described. Exceptions are strictly construed. If the phrase mentioned is not given the restricted meaning herein suggested, the words "lineal descendant" in the earlier part of the section have no vitality at all and must be entirely ignored. The statute seems to clearly exempt the lineal descendants of three classes only: (1) of the decedent; (2) of a child made an heir under Section 4182; (3) of an adopted child. In other words the lineal descendants of only those to whom the decedent stood *in loco parentis* are exempt.

This, too, is in entire harmony with the second section of the statute which recognizes every one not specifically exempt and not lineal descendants of any of the three classes mentioned as either a collateral heir or a stranger to the blood, and as such subject to the tax.

The only reported case in Ohio is *In re. Estate of William Hooper*, 6 O. D., 560; 4 N. P., 186. In this case the stepsons of the decedent were held not exempt. If the phrase "or the lineal descendant thereof" had modified all of those exempted it would have exempted the lineal descendants of the wife as well as the lineal descendant of the nephew and niece.

I am of the opinion that legacies to grand nieces and grand nephews are not exempt from the operation of the law.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### AUDITOR — COUNTY — FEES OF.

County auditor making settlement with auditor of state after amendment of Section 1069 R. S., effective February 13, 1906, entitled to fee of one per cent. of collections for school fund, as allowed by said section in its original form.



August 18, 1906.

HON. W. D. GUILBERT, *Auditor of State, Columbus, Ohio.*

DEAR SIR:— Under date of February 15th, 1906, you inquired of this department whether the Auditor of State should be governed by Section 1069 as amended February 15th, 1906, or by the provisions of that section prior to its amendment in making settlement with county auditors for fees due them for preparing and placing upon the tax duplicate the school levies of 1905.

You were advised at that time by Mr. Mauck, Special Counsel to this department, that the question whether the immediate application of the amended statute violated any of the constitutional rights of any officer was a judicial one to be determined by the courts, and that until such determination was had you should refuse to allow the 1% provided under Section 1069 before the same was amended.

The right of the county auditor to receive the 1% as provided in original Section 1069, has recently been determined by a suit in the Court of Common Pleas of Clinton County, in which it was held that the services of the county auditor having already been performed under the statute fixing his compensation for the same, the General Assembly was without power to take away that compensation so as to defeat claims previously accrued. In that case a final judgment has been entered authorizing the county auditor to draw his warrants on the Treasurer of Clinton County for 1% on all moneys collected on the tax duplicate for school purposes at the December, 1905, and June, 1906, collections.

I therefore advise you that the judgment in said case should be followed by you in making your settlement with county auditors for the moneys collected in the December, 1905, and June, 1906, collections.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### TREASURER — COUNTY — FEES OF.

County treasurer not entitled to fee of 8/10 of 1% of collections for school fund as part of grand duplicate, in addition to 1% provided by Section 3960 R. S.

August 29, 1906.

HON. E. M. FULLINGTON, *Deputy Auditor of State, Columbus, Ohio.*

DEAR SIR:— I have yours of August 27th accompanied by an opinion of the Prosecuting Attorney of Pickaway County rendered to the treasurer of that county, advising the treasurer that under Section 1117 he is entitled to his percentage upon moneys collected on the grand duplicate of the county, and that in addition he is entitled, under Section 3960 to 1% upon the amount collected under school levies.

The prosecuting attorney appears to base his opinion that the county treasurer is entitled to double compensation for the collection of school funds upon *State v. Lewis*, 73 O. S., 201. I do not consider the case cited as controlling the treasurer's compensation or in any way pertinent to the case.

Section 3960 provides that the treasurer shall, upon the collection of school funds, receive one per centum and no more. The words "and no more" are not to be found in any of the sections under consideration in the *Lewis* case. It is difficult to imagine any way in which the General Assembly could have more clearly provided against the treasurer receiving double compensation for the collec-



tion made under school levies, than to use the words that it has employed in this case. I advise that upon settlement you allow the treasurer one per centum on all moneys collected under school levies "and no more."

Very truly yours,

W. H. MILLER,

*Ass't Attorney General.*

### DOW TAX — REFUNDER OF.

Authority of county auditor to replace upon duplicate Dow tax penalty refunded by mistake denied; authority of prosecuting attorney to bring suit for recovery of such refunder.

October 16, 1906.

HON. W. D. GUILBERT, *Auditor of State, Columbus, Ohio.*

DEAR SIR: — You request an opinion as to the right of the county auditor to replace upon the duplicate a penalty assessed for non-payment of a Dow tax, once paid in full and receipted for, but refunded by the auditor acting under a mistaken idea of the law.

I am unable to find any authority for such procedure. The penalty became a lien on the property when it was first entered upon the duplicate, and this lien was discharged when the tax and penalty was paid. It cannot be revived by the unauthorized act of the auditor in refunding the penalty.

The prosecuting attorney may bring suit under Section 1277 R. S., against the person to whom the refunder was made for the recovery of the public funds so misappropriated. *Vindicator Printing Co. v. State*, 68 O. S., 362-372.

Very truly yours,

CHARLES P. HINE,

*Ass't Attorney General.*

### TAXATION.

Moneys and credits invested in non-taxable securities at date of return subject to be listed for taxation for portion of tax year preceding such investment.

November 23, 1906.

HON. W. D. GUILBERT, *Auditor of State, Columbus, Ohio.*

DEAR SIR: — I am in receipt of your request for an opinion upon the question presented by the Auditor of Clark County as follows:

"Are monies which have been invested in non-taxable securities to-wit: county or municipal bonds,, subject to be listed for taxation during any portion of the tax year preceding such investment."

Section 2736 R. S. provides that the tax payer shall return his various forms of taxable personal property, monies, etc., which are in his possession, or under his control, on the day preceding the second Monday of April of each year.

Section 2737 provides what the statement of the tax payer shall set forth, and among other items is the following:

"Sixteenth, the monthly average amount or value, for the time he held or controlled the same within the preceding year, of all monies, credits, or other effects within that time invested in, or converted into bonds or other securities of the United States or of this state not taxed, to the extent he may hold or control such bonds or securities on such day preceding the second Monday in April."

The General Assembly has thus established a particular day upon which the taxability of property is determined. Section 2737 distinctly provides what shall be contained within the statement made by the tax payer, but it is not made the guide by which to determine the property that is subject to taxation. That is determined by Section 2731 R. S., and by Section 2, Article XII of the Constitution.

The state in making the ownership or holding and controlling of property subject to taxation to relate to the second Monday of April in any year, was not precluded from making such property subject to taxation at all periods of the year. This is evidenced by Section 2737 R. S., which provides, among other things, for ascertaining the average value of a merchant's stock, the average value of a manufacturer's materials and manufactured articles, during the tax year, and likewise the monthly average amount or value of monies, credits, etc., thereafter invested in non-taxable bonds or other securities of the United States or of this state.

In construing the paragraph quoted from Section 2737 R. S., the bonds of the several subdivisions of the state, such as cities, villages, hamlets, counties and townships, should be included among the non-taxable "bonds or securities" of the State of Ohio.

Such divisions are "public agencies in the system of the state government," and their bonds, since the first day of January, 1906, are exempted from taxation. (97 O. L., 652.)

Some question may arise as to such bonds being included in the operation of Section 2737 R. S., but as any other construction would create an unconstitutional exemption and discrimination in favor of certain non-taxable investments, and against other forms thereof, it should not be adopted unless the language employed necessarily excludes such view, which in my opinion it does not.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



(To the Bureau of Inspection and Supervision of Public Offices,  
Department of Auditor of State.)

MUNICIPAL CORPORATIONS — APPORTIONMENT OF FUNDS LOST IN  
BANK FAILURE.

Apportionment of loss of city funds caused by failure of bank a mere matter of book-keeping.

January 23, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN: — I beg to acknowledge the receipt through you of a letter from Hon. Wm. L. Day, City Solicitor of Canton, Ohio, containing certain inquiries which you have submitted to this department for a written opinion thereon. It appears from the statement contained in the city solicitor's letter that the time of the failure of the Canton State Bank of Canton, certain funds of the city, including the sinking fund and also funds of the city school district and the firemen's pension fund, were represented to be somewhat complicated by reason of the failure of that bank, and the question is presented as to how the loss caused thereby to the various funds should be apportioned so that no one or more funds should bear all, but a uniform proportion of the loss.

The solicitor further makes the statement that P. A. McKenzie, the examiner appointed by your department to investigate the financial condition of the municipal offices of the City of Canton, has suggested in his report that he prorate the loss by reason of the bank failure "among the general city funds, the sinking fund, the firemen's pension fund and the school fund." The solicitor reports that the firemen's pension fund was deposited in an entirely separate bank from the one which failed, and under separate bond, as was also the school fund, for each of which funds the city treasurer executed a separate bond.

Having no information as to the facts involved herein other than that contained in the letter of the city solicitor, and basing the opinion expressed upon his recital of the facts, I beg to say that as to the general funds of the city in charge of the city treasurer by virtue of Section 135 of the Municipal Code, as amended in 97 O. L. 270, there need be no partition or division of the loss between the various divisions of such funds because the bond given by the treasurer covers the same *in toto*, and the attempt to prorate the loss among the various divisions of the city funds, would be a mere question of bookkeeping, not decreasing nor increasing the liability, if any, upon the treasurer's bond, nor including the funds of the city with those of the school or the firemen's pension fund, for which separate bonds and accounts are required. This is evidenced by Section 1, of the act found in 95 O. L. 223, amended in 97 O. L. 248; and also with regard to the duties of the city treasurer when acting as treasurer of the school funds by virtue of Section 136, Municipal Code, and 4042 R. S. Therefore, if the firemen's pension fund and the school funds were in other and separate banks from that which failed I cannot see upon what principle such funds should be charged with any portion of the loss.

As I have said, as between the various divisions of the municipal funds the question of partitioning the loss so sustained is but one of bookkeeping there arises therefrom no question of law upon the facts presented to be solved by this department.

I return herewith to you the letter of the city solicitor under date of January 17th, 1906.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



SPECIAL SALARY LAW—EFFECT OF DECISION DECLARING SAME  
UNCONSTITUTIONAL UPON COMPENSATION OF OFFICERS  
AFFECTED.

Officer drawing salary under invalid special salary act for Hamilton County estopped from claiming fees for services rendered during period for which salary drawn; fees computed according to general statutes, after special act declared unconstitutional; clerk of courts entitled to fees for records made after salary system abandoned; county auditor entitled to one per cent. of increased valuation for improvements for entries made upon the duplicate at time when no salary was drawn.

January 26, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of  
State, Columbus, Ohio.*

GENTLEMEN:—Acknowledging the receipt of yours of the 18th inst., relative to the question presented by you concerning the fees of certain officers in Hamilton County, I submit herewith the questions presented and the answers thereto:

1. Since the salary law applying to Hamilton County was declared unconstitutional by the Supreme Court, at what time should the officers stop drawing a salary and begin receiving fees?

The Supreme Court held in the case of the City of Findlay v. Pendleton, et al., 62 O. S. 80, and also in the case of State of Ohio ex rel. Guilbert, Auditor v. Yates, Auditor, 66 O. S. 546, in substance, that an unconstitutional act is void, not only from the time it was declared unconstitutional but it never had any validity and could not be invoked as a foundation of right to be enforced in a court of justice. It would therefore follow that the invalidity of the act providing for a fixed salary to be paid the officers of Hamilton county existed from the inception thereof and no specific time can be asserted when the officers should stop drawing salaries therein provided for, and begin receiving the fees provided for services mentioned in the statutes. The true rule is that the officer is estopped by the drawing and acceptance of the salary provided by an unconstitutional law, from claiming fees or additional compensation for the same period during which he received a salary, and if at any particular period the officer or officers refused to, and did not, accept their salaries for any given period they were then entitled to receive fees for the services performed during such period. The application of this rule depends upon the facts as shown to your examiner and the compensation should be computed accordingly.

2. Are the county officials entitled to collect fees earned during the salary period and retain the same for their own use, or must such fees be collected and paid into the county treasury to the credit of the fee fund?

The answer to this question is suggested in the answer to the preceding one, for if any county official receives his salary during the salary period he is estopped from retaining fees for services performed during such period and all such fees, when collected, must be paid into the country treasury to the credit of the fee fund.

3. Should the allowance made to the county officials and fees taxed be checked in accordance with the provisions of special acts applying to Hamilton County only, or in accordance with the general laws applying to all counties?

Under the authority of *State ex rel. Guilbert v. Yates, supra*, holding the act of April 22, 1896, (92 O. L., 597), unconstitutional, the method of computing fees should be pursuant to the general statutes governing items of service and not by special acts, applicable to one or more counties. This rule should be followed where the act under which the computation is sought to be made has been declared to be void, but should not be applied where the act is in force and not questioned in any court.

4. Where the clerk of court is recording a large number of old cases where the cost of the records has been collected in former years from litigants and the money so collected paid into the county treasury to the credit of the fee fund, should the clerk be allowed as a credit against the amount due the county treasury from him on account of fees collected by him which had been earned during the salary period, the amount taxed for such records?

Pursuant to the requirements of Sections 1341, 1342, 1343, etc., R. S., the salaries of the deputies and assistants were fixed by the judges of the court of common pleas. These were to be paid from the county fee fund, and the county would have been liable for the services performed in making such records, whether the clerk had remained upon a salary basis or on a fee basis. If the records were not actually made until after the clerk's office went upon a fee basis, and the fees had been collected for such records, and paid into the fee fund, the amounts thereof would be a charge against the fees in the hands of the clerk, and upon settlement the clerk is entitled to a credit for such amount.

5. You quote Section 1071 of the Revised Statutes, regarding the compensation of the county auditor, wherein it is provided "that in Hamilton County, whenever any assessor or taxpayer who is required by law to list for taxation any improvements to real estate shall fail to do so, and such improvements are placed by the county auditor upon the tax duplicate for any year, an amount equal to one per centum of the tax value of such improvements shall be allowed by (to) the county auditor by the county commissioners as compensation therefor, and which amount the county auditor shall deposit in the county treasury to the credit of the fee fund as earnings of the county auditor's office." The question presented regarding such act is, since the change from the salary to the fee basis may the auditor be legally allowed this percentage for his own use?

He will be entitled to the amount computed by the above statutory rule for services in that regard performed during such period when he was not receiving a salary, and where such improvements are placed by the county auditor upon the tax duplicate for any year or years wherein he has received no salary, the allowance of one per centum should be made by the county commissioners as compensation for his entire services in connection therewith, computed upon the valuation of the improvement for a single year, and not upon the aggregate valuation.

In arriving at these conclusions it has been by the consideration of the very well known principles applicable to such cases. A law though questionable as to its constitutionality, if followed by any executive officer pursuant to which he has been paid a given compensation or salary, is sufficient to estop him from claiming any other compensation or salary for services performed during the same period, and until it is declared to be unconstitutional, it furnishes a rule for his guidance



and direction in connection with the duties of his office. When it is declared unconstitutional by a court of competent jurisdiction it is the same as if the law had never existed, but will estop him who has received and accepted his compensation thereunder.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### AUDITOR—COUNTY—FEES OF, FOR INDEXING DITCH PROCEEDING.

County auditor entitled to fee of 10c for indexing each entry in the commissioners' journal of ditch proceedings; not required to index each name separately.

March 21st, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN:—Your communication of recent date relative to the fee to be allowed the County Auditor for indexing the proceedings of the County Commissioners as to the apportionment made by the County Surveyor in cases for the location and construction of ditches, is received. You say that the apportionment made by the County Surveyor contains the name of each land owner affected, together with the amount of his assessment, and you particularly inquire if the Auditor is required to index each name.

In reply I beg leave to say that Section 850 of the Revised Statutes of Ohio provides:

"That the clerk shall keep a full and complete record of the proceedings of the board, and a general index thereof, in a suitable book provided for that purpose, \* \* \* \* and in counties where no index has been made of any such record, the commissioners thereof are hereby authorized to cause an index to be made of such past records for such period of time subsequent to the first day of January, A. D. 1880, as the judgment of the county commissioners may determine; and the clerk shall receive for indexing provided for in this section, such compensation as is provided for like services in other cases."

The fee commission, composed of the Attorney General, Auditor of State and Secretary of State, rendered an opinion December 7th, 1902, holding that the Auditor is entitled to receive 10 cents for indexing *each subject or separate journal entry*, in the commissioners' journal under Section 850, R. S. I believe the construction placed upon Sec. 850 by the fee commission to be correct. Therefore the Auditor is not required to index each name in said apportionment, but is only required to index the journal entry containing the finding the County Commissioners upon said apportionment.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## PUBLICATION OF REPORT OF COUNTY COMMISSIONERS.

Manner in which report of county commissioners shall be published fixed by Section 917, R. S.

March 23rd, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN:—I have been requested to give you an opinion as to whether the report of County Commissioners may be published under the authority of Section 4367 in two newspapers at the county seat and two newspapers at each city in the county having a population of more than 8,000.

Section 917 was enacted on April 16th, 1900, and is of later date than Section 4367. This section requires the publication of the Commissioners' report and specifies the number of times it should be published, i. e.:

"One time in two newspapers of different political parties, printed in the county, and of general circulation in said county, if there are two such papers published; if not, then a publication in one paper only is required; and in addition to the publication therein required, be published in one newspaper printed in the German language and having a bona fide circulation of not less than six hundred, if there be such a paper printed, and in general circulation among the inhabitants speaking that language in the county, and in the same manner."

Since the legislature has itself prescribed the time and manner of publication of this report, the county officials have no discretion to change the number of times of publication. Section 917 governs the publication of this report.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## STREETS—FUNCTIONS OF COUNCIL AND BOARD OF PUBLIC SERVICE AS TO.

Function of council with regard to supervision of streets legislative only; administrative functions, including the expenditure of money appropriated by council for street purposes, vested in board of public service.

March 30th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

DEAR SIR:—Yours of this date has been received, together with the letter of the City Solicitor of Springfield, containing certain inquiries which you submit to this department for reply.

The five questions presented by the communication of the City Solicitor present but different phases of the same proposition, namely, What are the respective duties of the council and the board of public service in the supervision and control of public streets and ways of a city?

By Section 28 of the Municipal Code the following provision is made:

"In all municipal corporations council shall have the care, supervision and control of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts and viaducts within the corporation and shall cause the same to be kept open and in repair and free from nuisance."

By Section 139, defining the powers of the board of public service the following provision is made:

"The directors of public service shall be the chief administrative authority of the city, and shall manage and supervise all public works and all public institutions, except where otherwise provided in this act."

Section 140:

"The directors of public service shall supervise the improvement and repair of streets, avenues, alleys, lands, lanes, squares, wharves, docks, landings, market-houses, bridges, viaducts, aqueducts, sidewalks, sewers, drains, ditches, culverts, ship-channels, streams and water-courses; the lighting, sprinkling and cleaning of all public places, and the construction of all public improvements and public works, except as otherwise provided in this act."

Section 141 extends this power of the board of public service to the management of all municipal industries and all public buildings and other property of the corporation.

It would be contended upon a superficial examination of these two provisions of the Municipal Code, that there was an irreconcilable conflict between the authority of the council and the board of public service with regard to the supervision and control of the streets and public ways. But fundamentally this difference must be found in the organization of the bodies with regard to the different branches of the state government to which they are related, and not in the language employed in the foregoing sections.

This is emphasized by Section 123 of the Municipal Code which provides as follows:

"The powers of council shall be legislative only, and it shall perform no administrative duties whatever and it shall neither appoint nor confirm any officer or employe in the city government except those of its own body, except as may be otherwise provided in this act. All contracts requiring the authority of council for their execution shall be entered into and conducted to performance by the board or officers having charge of the matters to which they relate, and after authority to make such contract has been given and the necessary appropriation made, council shall take no further action thereon."

In each department the respective bodies referred to, are supreme, to wit, the council as a legislative body and the department of public service as the chief administrative authority of the city. The observance of this fundamental distinction, the difference between the legislative and the administrative, will solve all the difficulties presented by the communication of the City Solicitor; and the determination of the particular proposition as to whether an act cited is either legislative or administrative should be determined by the City Solicitor, who is the legal counsel of the municipality.



In Abbott on Municipal Corporations, the following language is used with regard to legislative bodies :

Section 513. "A municipal council possessing, however, the power to legislate for those within its jurisdiction must necessarily act in the same manner under the same conditions and controlled by the same general principles of law and the special restrictions that may exist for its prototpye, the legislative body of the state or nation. Its enactments are laws in all their essential characteristics but limited in operation only with respect to territory."

With regard to the care of the streets and public ways the administrative bodies classed under the head of executive, is thus commented upon by the same author :

Section 572. "The care of public highways includes not only the making of repairs as ordinarily understood but also the employment of those means, financial or otherwise as may be found necessary to maintain them in a safe condition and protect them from injury. The employment of the necessary materials and men to accomplish this, it has been held, *is a proper exercise of these duties*. The effecting of such a result will not justify, however, the use of agencies not authorized by law or the incurring of unauthorized indebtedness, or the expenditures of public funds in excess of those legally appropriated for a particular purpose."

With this light cast upon the construction of powers of council as distinguished from powers of administrative bodies, the language employed in Section 123 becomes clear that when the contract for any given improvement is authorized by council and the moneys appropriated for the purposes contemplated by the contract, the full power of the council has been exercised in connection therewith and the conducting of such contract to performance must be left to the judgment of the administrative officer, or with the board of public service.

Applying this principle to the questions proposed by the City Solicitor, it would be a legislative power to authorize a contract to be made for the improvement and lighting and otherwise caring for the public streets of the city, and appropriating the money therefor ; but it would be administrative to determine the method of the improvement, what it should consist of, the character of the lights to be employed, where the same are to be suspended or otherwise fixed and established. The limitation upon the power to contract as imposed upon the board of public service should be borne in mind as contained in Section 143. For any contract or purchase involving \$500.00 or less, the directors of public service are supreme. They do not need the concurrence of council thereon. When any expenditure within that department other than the compensation of persons employed therein exceeds \$500.00 such expenditure shall first be authorized and directed by ordinance of council, and when so authorized and directed, the directors of public service shall make the contract with the lowest and best bidder after advertisement as require by such section.

The authority of council herein spoken of is the same as that mentioned in Section 123, and is limited to the exercise of legislative powers in both of such provisions.

When the appropriation has been made for general purposes of repair or otherwise, the expenditure of the same and the method of its performance are, by these sections, vested exclusively in the board of public srvice.

As I have said, the application of this distinction between the powers of the



two bodies, giving to each the right to exercise the proper powers conferred upon it, will solve all the questions presented by the City Solicitor, with regard to which no serious disagreement can arise as to their proper construction and application.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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#### DEPOSITORY — CITY.

Funds of city must be awarded to bank offering highest rate of interest.

April 2nd, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN: — I beg to acknowledge the receipt of your communication of even date herewith enclosing the letter of the City Auditor of Newark, Ohio, under date of the 31st ult., also copies of certain ordinances and resolutions adopted by the city council of the city of Newark.

I note your request for a written opinion upon the questions submitted in the City Auditor's letter, and in answer thereto would say, when the city council of the city of Newark, pursuant to Section 135 of the Municipal Code advertised for bids for the deposit of the city moneys and received therefor, pursuant to such advertisement, two bids, one from the Licking County Bank & Trust Company, in which that bank agreed to pay 2%, and the other from the Newark Trust Company, in which that bank agreed to pay 1½% interest for the use of such money as might be awarded to it pursuant to such bids, it became and was the duty of the city council to award to the Licking County Bank & Trust Company, if their bid was in all respects legal, any portion of the public moneys of the city of Newark but not to exceed the amount of the paid in capital stock and surplus of such bank, upon such bank tendering good and sufficient surety as provided by the section of the Municipal Code above referred to. The council had no authority without again re-advertising for bids to award to the Newark Trust Company any portion of the public moneys upon its bid of 1½%. Such bid would be the lowest rate of interest offered for the use of the public moneys and would not be in compliance with Section 135 of the Municipal Code.

The direction of the council to the City Auditor after awarding the amount of money provided by the resolution to the Licking County Bank & Trust Company, to proceed to re-advertise for the remaining funds was perfectly lawful and was as required by the section quoted. I cannot agree with the City Solicitor in his opinion that any portion of the funds under the original advertisement and bid of the Newark Trust Company should be awarded to that company. I deem such attempt to award any portion of the public monys to the Newark Trust Company upon its bid of 1½% a plain violation of that section of the code.

Your letter informs me that after the passage of the resolution to re-advertise for the remaining funds the City Solicitor enjoined the Auditor from publishing the legal notice and enjoined the council from awarding any contract. Also that upon the passage of an ordinance or resolution providing for the employment of counsel, other than the Solicitor, to represent the city officers, such employment was enjoined upon the petition of the city solicitor. Both of these cases are now pending in the courts.

You request that as the propositions here presented involve the ruling of your department and of this department thereon, that counsel may be employed by this department to assist in the presentation of such cases and thus seek to sustain the rulings and instructions of your department. With this in view I will make arrangements immediately to have counsel represent your department at the hearing of those cases.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### PUBLICATION.

What notices, etc., must be published in two newspapers of opposite politics in cities of 8,000 inhabitants outside county seat.

April 5th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN:—Your letter of March 31st requests my opinion as to what notices, proclamations or advertisements shall be published in two newspapers of opposite politics in cities of 8,000 inhabitants or more outside of the county seat under Section 4367, R. S.

The only advertisements which are required to be published in two newspapers of opposite politics at the county seat and also in two newspapers of opposite politics published in other cities within the county having more than 8,000 inhabitants, are proclamations for elections, orders fixing times for holding court, bridge notices, pike notices and notices to contractors. There are some statutes prescribing notices of the classes enumerated in Section 4367, but of more recent enactment, which provide specifically for a different time and place of publication. Such statutes supersede Section 4367 in so far as they are inconsistent therewith.

Section 4367 as originally enacted (73 O. L. 75) provided that,

“Such other advertisements *or notices* as the auditor, probate judge, treasurer *and commissioners* may deem proper shall be published.”

As amended (86 O. L. 258) the words “or notices” are omitted and the word “or” is substituted for “and.” Each of the enumerated officers may therefore publish such “advertisements of general interest to the taxpayers” as he deems proper in two newspapers of opposite politics at the county seat only or he may, in his discretion, publish them also in two newspapers of other cities within the county having more than 8,000 inhabitants.

It is impracticable to attempt to define what advertisements properly come within the scope of the words “such other advertisements of general interest to the taxpayers as the auditor, probate judge or commissioners may deem proper.” The statute vested a large discretion in the officers enumerated, the only limitations being that the publication must be an advertisement within the common meaning of the word, and must be a matter of general interest to the taxpayers. It is not within my province to attempt to mark the bounds of the discretion vested in these officers more definitely than does the statute itself.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## RECORDER — COUNTY — FEES OF.

County recorder entitled to fee of six cents per hundred words for transcribing index to records in his office; entitled to fee for keeping alphabetical index and general index authorized by Section 1154 R. S., only; county commissioners have no authority to authorize any other form of index.

April 6th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

DEAR SIRS — Your communication dated March 28th, is received. You submit the following inquiries:

1. If the alphabetical indexes kept in a County Recorder's office, become so worn and defaced as to require transcribing in order to preserve them, may the Commissioners authorize the making of a different form of general alphabetical index and pay the Recorder any fee other than the 6 cents per 100 words provided for transcribing records or books in his office, for making such new indexes?

The general alphabetical indexes to which you refer I assume to be those provided for by Section 1153 R. S., this form of index being the only known in the Revised Statutes as an "alphabetical index."

Section 1153 of the Revised Statutes provides that the Recorder "shall make and keep up" the alphabetical index. Section 1157 of the Revised Statutes provides the fee the County Recorder shall receive for the same. The only statute under which a County Recorder could receive compensation for transacting the alphabetical index is Section 906 of the Revised Statutes, which is as follows:

"The county commissioners shall, when they deem the same necessary, have any of the records or *books* in the office of the county auditor, county *recorder*, or county surveyor, transcribed into other books, by the officers having charge thereof, and pay them therefor six cents per hundred words;" etc.

This section authorizes the County Commissioners to contract with the County Recorder to transcribe any of the records or books in the office of the County Recorder. The alphabetical index being a separate book from the records the County Commissioners would, in my opinion, be authorized to employ the County Recorder to transcribe the same and pay him therefor 6 cents per hundred words, and no more.

2. Are the County Commissioners now or have they heretofore been authorized to prescribe any form of general index to be kept in the Recorder's office other than the form specifically provided for in Sec. 1154, R. S., commonly known as an abstract index, or one in substantial compliance with this section?

This inquiry, as I understand it, involves the construction of Section 1155 of the Revised Statutes, which provides that:

"When general indexes, such as are prescribed in the next preceding section, or any other indexes *authorized* by the county commis-



sioners, are brought up and completed, the recorder shall keep up the same; and he shall receive for indexing any lot or parcel of land 10 cents, to be paid out of the county treasury."

The general index referred to in this section is the index provided for in Section 1154. The language used in Section 1155 "or any other indexes authorized by the county commissioners" I understand to be any indexes authorized by the County Commissioners other than the alphabetical index provided for in Section 1153, and the general indexes provided for in Section 1154. However, I know of no statutory provision which authorizes County commissioners to provide for any other index save the two enumerated.

3. May the County Commissioners legally pay out of the county treasury for the keeping up of general indexes in the Recorder's office, other than the indexes provided in Sec. 1154 or some other index in substantial compliance with that section?

Section 1155 is the only statute that provides payment for indexes out of the county treasury and, in my opinion, refers to the general index provided for in Section 1154.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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#### AUDITOR — CITY — INCREASE OF SALARY.

City council may increase compensation of city auditor, but such increase cannot be effective during his term of office.

April 12th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

DEAR SIR:—I have an inquiry presented through your department signed by Mr. F. D. King, as President of the City Auditors' Association in which is presented the question of the power of city councils to increase the pay of the Auditors. I cite you to Section 126, M. C., which provides:

"The salary of any officer, clerk or employe so fixed shall not be increased or diminished during the term for which he may have been elected or appointed."

Under this provision the power is conferred upon city councils to increase or diminish the salaries of the Auditors, as well as any other officer, but such increase or decrease cannot take effect during the term for which such officer is elected.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

## MUNICIPAL CORPORATION — EXPENDITURES OF.

No expenditures may be made by city departments other than as provided for by the semi-annual appropriation ordinances of council.

April 20th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN:—I beg to acknowledge the receipt through your department of the letter of Hon. George S. Marshall, City Solicitor, Columbus, Ohio, presenting five separate inquiries upon which the written opinion of this department is requested.

I do not consider it necessary to separately state the questions presented because they can all be considered under one head, viz: Can there be any expenditures made by any of the departments of the city other than as provided for by the appropriation ordinances?

The answer to the foregoing question would include the question of the power of the city to grant to the board of public service the additional amount asked for, also the power to provide for the purchase of land for opening and widening certain streets, also the payment of the claim of the electrical expert mentioned in the fourth question of the City Solicitor. These and all similar expenditures are governed by the provisions of Section 43 of the Municipal Code, viz:

“In all municipal corporations, council shall make at the beginning of each fiscal half year, appropriations for each of the several objects for which the corporation has to provide, out of the moneys known to be in the treasury, or estimated to come into it during the six months next ensuing from the collection of taxes and of other sources of revenue. All expenditures within the following six months shall be made with and within said appropriations and balances thereof. All unexpended appropriations or balances of appropriations remaining over at the end of the year and all balances remaining over at any time after a fixed charge shall have been terminated by reason of the object of the appropriation having been satisfied or abandoned, shall revert to the funds from which they were taken and they shall then be subject to such other authorized uses as council may determine.”

It is mandatory by the foregoing section of the Municipal Code to provide for all expenditures semi-annually, by semi-annual appropriation ordinances. Provision is made that the expenditures for the six months following the appropriation shall be made out of the amounts so appropriated. It was presumed by the general assembly that the municipal council and the officers of the city would be cognizant at the time of the making up of the budget of the expenditures which should be made within the following six months. There is no provision providing for such expenditures as are included in the queries of the Solicitor other than by recourse to the general appropriation scheme thus set forth in Section 43 of the Municipal Code, save by the creation of a contingent fund which is provided for by the same section, but as the questions submitted do not ask as to the power to pay the same or any of them from any such contingent fund, consideration of its provisions is not given.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



ASSESSMENT — FOR MUNICIPAL STREET IMPROVEMENTS — COM-  
PENSATION OF CIVIL ENGINEER NOT PAYABLE  
OUT OF PROCEEDS.

Compensation of civil engineer, regularly employed for work on street improvement may not be made payable out of proceeds of special assessment; compensation once paid out of proceeds of such assessment cannot be recovered from such engineer; such compensation should be provided for by appropriation of council.

May 14th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN: — I beg to acknowledge receipt of your communication enclosing a letter from G. P. Gillmer, City Solicitor of Niles, O., presenting the question as to the right to pay the compensation of a civil engineer out of the funds raised by assessment for street improvement purposes.

The statement is made by the City Solicitor that the engineer is employed by the board of public service per diem. It has been repeatedly held in Ohio that the compensation for the services of salaried officers could not be included in the amount of the assessment, but if an engineer was employed especially for that particular improvement the amount paid by the city for his services may properly be included in the assessment. The distinction adopted by the Supreme Court of this state in construing the following language from Section 2284, R. S., "the expense of the preliminary and other surveys," is, that such language has reference only to cases in which the engineer doing the work was employed for that special purpose and does not apply to work done by engineers appointed for a definite period of time, at fixed salaries. The court further says:

"It is sufficient to say that when the salaries of these engineers were paid from the general funds of the city, as required by law, that was the end of it, unless there was some law expressly authorizing the charge and assessment that was made \* \* \* for the purpose of reimbursing the city for the amount so paid; and in as much as there is no such law the court did not err in holding that the charge was improperly included in the assessment."

The same language is now employed in Section 2284 and I believe the same ruling should apply, and in the absence of specific authority therefor the expense incident to the work of the city engineer should not be added in the assessment.

The solicitor further asks, "If it should appear from the report of the inspector from your office that during a former administration the engineer drew directly from the fund providing for the improvement of a particular street" what would be advisable to be done regarding the same? If an inspection of the municipal offices would disclose such fact, it would seem that the engineer had been paid from a fund not created for that purpose and thereby the assessment for the improvement would be *pro tanto* excessive, and the right of action, if at all, would only lie in favor of the individuals affected thereby. The compensation had been earned by the city engineer and the payment from an improper fund would not form a basis for the recovery of the same from the engineer.

Answering the further question suggested by the city solicitor: If the board of public service is empowered to employ an engineer, as it is pursuant to Section 145, M. C., the compensation of such engineer should be fixed by the board.



pursuant to the foregoing section and sufficient appropriations should be made by council pursuant to section 43, M. C., for the payment of the same, as it would be one "of the several objects for which the corporation has to provide."

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### TREASURER—CITY—COMPENSATION FOR ACTING AS TREASURER OF SCHOOL FUNDS.

City treasurer may receive compensation from city board of education for acting as treasurer of school funds.

May 18th, 1906.

*Hon. Sam A. Hudson, Bureau of Inspection and Supervision Public Offices,  
Department of Auditor of State, Columbus, Ohio.*

DEAR SIR:—Your communication dated May 4th, inquiring whether or not a city treasurer who serves as treasurer of the city school district by virtue of Section 4042 of the Revised Statutes of Ohio, may legally receive compensation from the Board of Education for his services as treasurer of such school district, is received.

In reply I beg leave to say that Section 4056 of the Revised Statutes provides that,

"The board of education of *each school district shall fix* the compensation of its clerk and treasurer, which shall be paid from the contingent fund of the district."

Under this provision it is the duty of the school board of a city district to fix the compensation of the school treasurer, and the fact that the school treasurer is also the city treasurer will not preclude such treasurer from receiving the compensation so fixed.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### AUDITOR — COUNTY — COMPENSATION OF DEPUTY; COMPENSA- TION OF AUDITOR AS SECRETARY OF MUNICIPAL BOARD OF REVIEW.

Compensation of deputy auditor not dependent upon record of his appointment; county auditor as ex-officio secretary of boards of review of municipal corporations within the county may perform services by deputy, and receive more than one per diem for the same day's work.

County board of equalization may determine length of time for which clerks employed thereby shall receive compensation.

May 29th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of  
State, Columbus, Ohio.*

GENTLEMEN:—The questions submitted by Mr. Peckinpaugh of your department have received consideration, and in answer thereto I beg to say:

1. The legal appointment of a deputy to the county auditor should be evidenced by a record of the same, as provided by Section 1018, Revised Statutes. But the acts of the deputy cannot be impugned simply because the record of his appointment is not complete or that the same has been omitted. The record is evidential but not conclusive as to the appointment or non-appointment. If the appointment had been made, the auditor may be legally represented by the deputy without any record having been made thereof, and the compensation could be properly allowed, for the allowance of the compensation is not conditioned upon the completion of the record of the appointment of the deputy. The whole question turns upon the fact of the appointment and not upon the record thereof.

2. By Section 4 of the act of May 10th, 1902 (Sec. (2819-4) R. S.) creating boards of review for municipal corporations, it is provided as follows:

"The county auditor of any county in which any of such municipal corporations are located, shall be secretary to such board and shall, in addition to his other duties provided by law, be present at each meeting of the board in person or by deputy; he shall keep a correct record of the proceedings of the board in a book to be kept for that purpose, and perform such other duties as the board may order, or as may be incident to his position. For his services as secretary to such board he shall receive out of the county treasury, upon the order of the board, \$5.00 per day for each and every day the board shall be in session."

The query presented with regard to this act is whether one person can earn more than one per diem in twenty-four consecutive hours, payable out of the county treasury.

The provisions of the act, it will be noted, are that he, the county auditor, shall "be present at each meeting of the board in person or by deputy."

The facts presented show that in several of the counties of the state there are several boards operating under the provisions of this act, and of each of these boards the county auditor is the secretary and has been receiving the compensation provided by the act. It may be possible that the sessions of the board can be so arranged that he could be personally present at each session of each of the boards and thus *personally* comply with the requirements of the act. If this cannot be done he must then be present "by deputy." If this requires more than one deputy, he would be authorized to appear by such deputy. The compensation provided by the act is for the performance of the duties prescribed by the act and such other duties as the board may order. If these duties are performed, either by himself or lawful deputy, there would appear to be no good reason why he should not receive out of the county treasury, upon the order of the board, the compensation therein named.

3. The question further presented is as to the power of the County Board of Equalization, organized pursuant to section 2804, R. S., to employ a clerk or clerks and as to the length of time for which the clerk should receive compensation. The compensation provided by the act should not be limited to the days during which the board is in session, but should be as prescribed by the act, "not to exceed \$3.00 per day for their services for the time actually employed." It may be that the clerk of the board has duties to perform in connection with his employment, such as the issuing of notices or the inspection of county or other records, which might be at times other than the times during which the board was actually in session. The board is to be the judge of the time actually employed, and there could be no hard and fast rule adopted disqualifying the board from paying its clerk for services performed under its direction on days other than when the board was in session.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



## JUVENILE COURT.

Act in 98 O. L. 314, valid; compensation of probation officers; jurisdiction of court to try misdemeanors of parents, etc.

June 12th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN:—Yours of June 6th has received my consideration. The questions which it presents relate to the act of the 77th General Assembly found in 98 O. L., 314, 319, entitled an act "To amend Sections 1, 6, 7, and 10 of an act entitled 'An Act to regulate the treatment and control of dependent, neglected and delinquent children,' passed April 25th, 1904, and to supplement said act with supplemental sections 23, 24, 25, 26, 27, 28, 29 and 30."

1. The first question relating thereto is: "The enacting clause amends sections 1, 6, 7 and 10, of the act of April 25, 1904, while in fact, sections 1, 3, 6, 7 and 10 are amended. The original sections 1, 3, 6, 7 and 10 of the act of April 25, 1904, are not specifically repealed by this act. What, if any, effect does this have upon the validity of the law?"

Section 29 of the act provides that the act shall be liberally construed to the end that its purpose may be carried out. As there is no repealing clause contained in the body of the act (98 O. L., 314) the intent of the General Assembly should be construed to amend the act of April 25th, 1904 (97 O. L., 561) only to the extent that the two acts are inconsistent and cannot be construed together and, in such event, the latter act prevails. The failure on the part of the General Assembly to specifically repeal the enumerated sections of the act in question does not render the act invalid.

2. The question is presented: "How many probation officers may be appointed and what are the salaries provided for them in counties having a population of over 130,000; how many may be appointed and what are their salaries in counties having a population of less than 130,000?"

Section 6 of the act (98 O. L., 316) provides that:

"The juvenile courts of the several counties in this state shall have authority to appoint or designate one or more discreet persons of good moral character to serve as probation officers during the pleasure of the court: one of whom shall be a woman: *said probation officers to receive no compensation from the county treasury except as herein provided.* \* \* \* The number of probation officers named and designated by the juvenile court shall be as follows: in counties having a population of over 130,000, not to exceed three probation officers, one probation officer to be known as the chief probation officer, who shall receive not more than \$1,500 per annum payable monthly, and when in the discretion of the court it is found necessary, a first assistant, who shall receive \$1,000 per annum, payable monthly, to serve as probation officer during the pleasure of the court, to be paid by the county treasury out of any funds appropriated for the use of the judges of the common pleas, insolvency or probate courts, etc. \* \* \* Provided that said



judge, if in his opinion the circumstances demand it, may appoint a third or fourth discreet person to serve as probation officer, who shall receive \$1,000 each per annum, payable monthly, *and still other fit and willing persons who shall serve without compensation from the court* and said probation officers shall be and are hereby vested with all the powers and authority of sheriffs to make arrests, serve the process of said court and perform all other duties incident to their office."

A consideration of this section leads to the conclusion that the only probation officers who may receive compensation are those who are appointed by the juvenile courts in counties having a population of over 130,000. In such counties, if, in the opinion of the judge of the juvenile court, the circumstances demand it, he may appoint as many as four persons to serve as probation officers. The officer designated as the "chief probation officer" shall receive not more than \$1,500 per annum; a first assistant who shall receive \$1,000 per annum, and the third and fourth persons appointed as such officers shall receive \$1,000 each per annum, each payable monthly.

In the counties containing a population of 130,000 or less the number of probation officers would appear to be limited to such number as, in the opinion of the judges of the juvenile courts of such counties, the circumstances might demand; and in such counties there seems to be no other provision regarding such officers than that they shall be "fit and willing persons who shall serve without compensation from the court."

It is not within the province of this department to ascribe a reason for this apparent omission on the part of the General Assembly to fix the salaries of probation officers in counties containing a population of 130,000 or less, but we may properly state as part of the history contemporary with the enactment of this law that the counties within which juvenile courts were to be created by Section 3 of the act did not originally include any other than those wherein three or more judges of the Court of Common Pleas regularly held court concurrently, but by amendment the following provision was inserted in that section, to-wit, "provided that in all other counties the probate judge shall act as judge of the juvenile court," without enlarging the language used in Section 6, of the act in designating what probation officers shall receive compensation.

The language of Section 6, of the act, "said probation officers to receive no compensation from the county treasury except as herein provided," excludes from the operation of the provisions for compensation those probation officers appointed in counties having a population of 130,000 or less, as it has been repeatedly held by the Supreme Court of this state that when the statute creating an office does not provide for compensation the services are gratuitous.

3. "Section 23 defines what shall constitute a misdemeanor on the part of a parent or other person and provides fine and imprisonment upon conviction. Has the juvenile court jurisdiction to try such a case?"

Section 21 of the original act provides certain fines for the offenses therein defined and confers jurisdiction upon the juvenile court to hear the same and enforce its orders. In that class of cases such court has jurisdiction. In the class of cases mentioned in Section 23 (98 O. L., 317), I am inclined to believe that such court also has jurisdiction to hear and determine as to the guilt or innocence of the persons accused of the offenses defined therein, and the fees and costs in all such cases coming within the province of the act may be taxed as for similar services, and be paid out of the county treasury upon itemized vouchers

certified to by the judge of said court, as provided in Section 29 of the act in question.

4. "What records are required to be kept by the clerk of this court?"

Section 3 of the act (98 O. L., 315), provides:

"The orders, judgments and findings of such court shall be entered in a separate book or books known as a 'juvenile record,' which shall be kept by the clerk of said Common Pleas or other court whose judge may be so designated who shall be clerk of such juvenile court."

I am of the opinion that the language thus employed authorizes the judges of such courts to use such books for the entering of the orders, judgments and findings of such court similar in character to those which are ordinarily kept by Courts of Common Pleas for the entry of its orders, judgments and findings but to be separately designated as pertaining to the juvenile court.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### TRANSFER OF MUNICIPAL FUNDS.

Council may transfer from one fund to another; formalities of transfer; transfer not necessary in application of contingent fund to unforeseen deficiencies in appropriations.

June 29, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your favor of the 25th inst. containing the following questions referred to this department for answer:

1. Has council the authority to make transfers from one appropriation account to another, within the same fund?
2. Has council authority to make transfers from an appropriation account of one fund to an appropriation account in a separate fund?
3. Has council the authority to make transfers from the contingent fund for the use of an appropriation account in another fund?

These separate questions can be treated together, as they each call for a construction of Section 43 of the municipal code, supplemented by 97 O. L., 520.

By consideration of that section it is apparent that the limitation upon the power of the municipal councils to transfer moneys from one appropriation to another or from one fund to another, is contained in the following language:

"Provided that councils of cities or villages may at any time by the votes of three-fourths of all the members elected thereto, and the approval of the mayor, transfer all or a portion of one fund or a balance remaining therein, to the credit of one or more funds, but there shall be no such transfer except among funds raised by taxation upon all the real and personal property within the corporation, and no such transfer shall be made until the object of the fund from which the transfer is to be effected has been accomplished or abandoned."



The provision with regard to the contingent fund is as follows:

"In making the semi-annual appropriations and apportionments herein required council shall have authority to deduct and set apart out of any moneys not otherwise appropriated such sums as it shall deem proper as a contingent fund to provide for any deficiency in any of the detailed appropriations so to be made, which deficiency may lawfully and by any unforeseen emergency happen, and such contingent fund, or any part thereof, may be extended for any such emergency only by an ordinance passed by two-thirds of all the members elected to council and approved by the mayor, and any balance remaining in such contingent fund at the end of the fiscal year shall thereupon become a part of the general fund, to be again appropriated as other monies belonging to the corporation."

I assume that your several questions anticipate that the requisite steps shall be taken by the municipal council before attempting to make any such transfer contemplated thereby, and that in the absence of such action being taken there could be no transfers either between appropriation accounts, or between funds or between appropriations and funds.

Section 43 seems to plainly make a distinction between an "appropriation" and a "fund." These terms are not used interchangeably. A "fund" is the source from which an appropriation is made while an "appropriation" is the source from which the expenditures are made. By authority conferred upon your bureau, it has sub-divided municipal revenues into separate and distinct funds; and by authority of the same act, and also of Section 43, M. C., appropriations are made from such funds, "for each of the several objects for which the corporation is to provide." By provision of the municipal code (Section 35) estimates are to be made by every officer, board and department in the municipal corporation of the amount of money needed for their respective wants for the incoming year, and for each month thereof. It would seem from the provisions of that, and kindred sections, that the appropriations made, as required by Section 43, M. C., should be classified, at least, in as many classes as there are departments of the municipal government.

To observe the distinction more clearly between "appropriations" and "funds," illustration might be employed from the creation of certain "funds," designated by statute, in addition to those which the bureau has classified and designated, pursuant to the powers conferred upon it, such as an "assessment fund," and a "sinking fund." A "fund" has been defined to be "an amount set apart for some particular purpose of government." It is a pledge of the public or corporate revenue for one or several objects for which the corporation is to provide. When the word "sinking fund" is used it contemplates the revenue set apart as a fund to keep down the interest and extinguish the principal of the debt, and is so designated by Section 101 of the municipal code.

By the language of the section cited, a liberal provision was made by the General Assembly for the transfer of revenues from one fund to another, provided that the procedure therein set forth is adhered to. The only limitation upon the right of council to so provide is, that the transfer can only be made among funds raised by taxation, upon all the real and personal property in the corporation. This would prohibit a transfer of moneys from an "assessment fund" to any other fund, for that fund is raised by special assessment upon a certain specific portion of the property situated within a municipality, and is not raised by general taxation.

Subject to this limitation the authority would seem to be conferred upon



council to transfer from one fund to another, provided that such transfer be between funds raised by general levy, and after the object of the fund in which the transfer is to be effected has been accomplished or abandoned.

By the same authority by which the transfer has been made from one fund to another, which may be done at any time by the required vote and the consent of the mayor, the council may make appropriations therefrom, and may transfer from one appropriation account to another, whether within or without the same fund; but expenditures can only be authorized from the contingent fund in case of deficiencies in any appropriations, which may lawfully and by any unforeseen emergency happen; and, in such instances, such expenditures are made direct from such fund, and not by transferring any part of the same to the fund in which the deficiency so occurs. Such expenditures can only be authorized by an ordinance of council, passed by two-thirds of all the members elected thereto and approved by the mayor.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### DE FACTO OFFICER — COMPENSATION OF.

Duty of city auditor as to payment of salary pending judicial determination of title to office; liability of city to *de facto* and *de jure* officers.

July 6th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN:—Acknowledging the receipt of your recent letter containing the inquiry of William L. Davies, city auditor of Youngstown, Ohio, which you have submitted to this department, I beg to say that the rule is well settled that a *de facto* officer cannot maintain an action to recover the salary, fees or other compensation attached to an office; that an officer to be entitled to the salary of an office must have qualified thereto in the manner provided by law.

In the case put by the city auditor, Mr. George B. Moyer was dismissed from the position of city detective. The mayor then appointed his successor, Mr. Watkins, and following this the city council passed an ordinance reorganizing the police department and Watkins was again appointed detective. Mr. Moyer then made a demand upon the mayor for his reinstatement, which was refused, and he started proceedings in the Court of Common Pleas against the mayor to compel him to reinstate him as detective, and upon the trial of that case the court held that Moyer had been illegally dismissed. The mayor still refuses to reinstate Moyer and has appealed the case to the Circuit Court.

It is not in the province of this department to determine, under the circumstances, which is or which is not entitled to the office. It is clear that under the authorities, before an officer is entitled to the compensation attached to an office he must not only be a *de facto* but a *de jure* officer. But if the city has paid the salary attached to the office to a *de facto* officer it will not be required to pay the salary of a second time to a *de jure* officer, who has been excluded therefrom pending litigation as to the title to the office.

You might cite Mr. Davies to the decision of the State of Ohio on the relation of Cronin v. Eshelby, Comptroller of the City of Cincinnati, 2nd Ohio Circuit Court Report, 468; and under the authorities therein cited, if the auditor pays:

the salary to either one of the claimants to the office he need have no fears that he will be compelled to pay it to the other claimant. The better position for him to assume would be to stand indifferent as to the claims of each and refuse to pay either until the matter has been finally adjudicated by the courts or other settlement made of the question.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### COUNCIL — DISQUALIFICATION OF MEMBER OF.

Election or appointment of member of council to other public office or employment *ipso facto* vacates office of councilman; council may immediately, mayor after thirty days, fill vacancy; member resigning incompatible office or employment may retain office of councilman; disqualification for office of councilman on account of interest in expenditure of money of the municipal corporation must be established by proceedings in the probate court.

July 17th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department Auditor of State, Columbus, Ohio.*

GENTLEMEN:— Replying to the inquiries presented by you contained in the letter of Morton Webster, mayor of Pomeroy, Ohio, I beg to say the letter of the mayor and the report of your examiner inform me that at the time of the election of two of the councilmen they were also elected members of the school board, the election being held November 8th, 1904. And I gain the further information that another member of council has been furnishing supplies for the village, contrary to the provisions of sections 45 and 120 of the municipal code. The questions presented thereby are as follows:

1. Are the offices of the three councilmen named now vacant, *ipso facto*?
2. Was the election of the two councilmen who were at the same time elected as members of the school board, void?
3. On what date does the thirty days mentioned in Section 120, M. C., begin to run?
4. Does the mayor have the power to declare the offices vacant and proclaim the appointment of successors to the disqualified members?
5. Would the members who are also members of the school board be disqualified for appointment to fill their unexpired term as councilmen, even though they should resign from the school board?

All these questions relating to the same subject matter can be treated together. It is clear that Section 120 of the municipal code forbids any member of council holding any other public office or employment except that of notary public and member of the state militia; and further, that he shall not be interested in any contract with the city. That section contains the further language:

“Any member who shall cease to possess any of the qualifications herein required, or shall remove from his ward, if elected from his ward, or from the city, if elected from the city at large, shall forthwith forfeit his office.”



Upon the election or appointment of a member of council to any other office than those expressly excepted in Section 120, M. C., he ceases to be qualified to hold the position of councilman. The procedure to oust such disqualified person from the office of councilman is clearly set forth in the reported cases of our courts. In the case of *State of Ohio ex rel. Attorney General v. Craig*, reported in 69 O. S., 236, the Supreme Court reviewed the power of the city council of the city of Mansfield to elect certain members of the council as members of the board of health of that city, and further considered the legality of the appointment of the defendant, Dr. Craig, by such board of health so organized, as health officer of said city. On pages 244 and 245 the court used the following language:

"The appointment of members of council to positions on the board of health being a nullity and void, no proceeding in quo warranto was necessary to oust them from such nullity, but the council under the old statute or the mayor under the new municipal code, might treat the office (of the board of health) as vacant, and make a valid appointment to fill such vacancy as was done by the mayor in this case. True, the members of the old board might have been ousted by proceedings in quo warranto as intruding themselves into a public office without warrant of law, but while that might have been done, it was not necessary to do so before appointing a new board, because their appointment was a nullity, and they had no color of title to the office, and could not invoke a nullity to keep duly appointed officers out of the office. When there is some color of title, resort must first be had to quo warranto, but where there is no such color, but a mere nullity, a legal appointment may be made to fill the office, and then if the party in the wrong still persists in holding the office, he may be ousted by proceedings for that purpose."

I think the foregoing case is directly in point on the question of the eligibility of the two councilmen who were elected as members of the board of education. But it appears that one of the two members of the board of education has tendered his resignation as such member and retained the office of councilman. In that instance the disqualification having ceased the right to oust him for that reason would also cease; but in the case of the councilman who insists upon retaining both offices the following procedure can be adopted:

From the time he assumed the position of member of the board of education his qualification as a member of council ceased and from that time the grounds existed for the council to elect a successor for his unexpired term, and the council having failed to act for more than thirty days and to fill such vacancy the mayor can treat the position of such councilman as vacant, such vacancy arising from the disability of the person to serve as a councilman. The mayor can fill such vacancy by appointment pursuant to the provisions of Section 228 M. C., as was done in the case of *State v. Craig*, and should the member refuse to vacate his office as councilman he might be ousted by proceedings in quo warranto as pointed out in that case. In the meantime he should receive no compensation for his services as councilman because he is not qualified to act as such.

In the case of the councilman who has been interested in any contract with the municipality, as set forth in the letter of the mayor, he cannot be removed in the same summary way as is provided for the removal of the member who has ceased to possess the qualifications of a councilman. Section 120 M. C. forbids a member of council being interested in any contract with the municipality. Section 45 M. C. provides that:



"Nor shall any member of the council \* \* \* have any interest in the expenditure of money on the part of the corporation other than his fixed compensation; and a violation shall disqualify the member violating it from holding any office of trust or profit in the corporation, and render him liable to the corporation for all sums of money or other thing he may receive contrary to the provisions of this section, *and if in office he shall be dismissed therefrom.*"

The guilt of such member must be established by some tribunal and in some authorized form of proceeding. The authority is not conferred upon the mayor to try him for such offense, but as such action on the part of the councilman would constitute a misfeasance or malfeasance in office, complaints should be filed in the probate court by any elector of the municipality and a trial thereon be had in that court, and if the complaint be sustained a judgment of removal would be entered by the court. See Sections 1732 and 1736 (old numbers, R. S., Ellis's Municipal Code, Second Ed., pp. 557 to 559.) In such case the vacancy is required to be filled pursuant to the provisions of Section 228 above referred to. This view of the procedure against such councilmen is fully sustained by the Supreme Court of Ohio in the case of *State ex rel. Attorney General v. Ganson*, 58 O. S., 313, 324.

I cite you further to the 7th paragraph of the syllabus in the case of *Commissioners of Guernsey County v. Cambridge*, 7 C. C. 72; *State ex rel. Attorney General v. McMillen*, 15 C. C., 163.

The foregoing having answered all the questions presented I herewith return to you the report of the examiner, which you have submitted, also the letter of Mr. Webster addressed to you under date of July 14th.

Very truly yours,

SMITH W. BENNETT,  
*Special Counsel.*

#### AUDITOR — COUNTY — FEES OF.

County auditor placing omitted taxes on duplicate entitled to fee of four per cent. of amount thereof.

July 24, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN:— The question presented in your letter of the 23d inst. has received my consideration. It involves the inquiry presented by N. C. Bohnert, Auditor of Pickaway County, as to whether he, the present auditor, is entitled to the 4 per cent. fee allowed by Section 1071 R. S., on taxes omitted and placed by a former auditor upon the tax duplicate, or whether the fee mentioned should be allowed to his predecessor, who performed such service?

In the case of *Probasco v. Raine*, Auditor, (50 O. S., 378) the Supreme Court of Ohio in construing Section 1071 R. S. said (p. 391):

"To have equality in taxation, all property must be brought upon the duplicate. Some officer must be authorized and empowered to cause all property to be listed for taxation. Such officer must be paid for his services, either by fees or salary."

The language of the act and the expression thus used by the court evidences that the General Assembly meant the auditor who performed the service, that is, discovered and placed the property upon the tax duplicate, is entitled to the statutory percentage.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### MUNICIPAL CORPORATION — CONTRACT OF.

Proper execution on behalf of city of contract with water company.

September 1, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMAN: — Returning herewith the letter addressed to you under date of the 27th ult., by J. U. Douglass, City Auditor of Massillon, Ohio, I beg to advise that the contract made and entered into by the City of Massillon with the Massillon Water Supply Company, should be executed on behalf of the city by the directors of public service pursuant to the requirements of Sections 143, 143a and 144 of the Municipal Code.

Very truly yours,

SMITH W. BENNETT,

*Special Counsel.*

#### COUNTY COMMISSIONERS — COMPENSATION OF, FOR DITCH WORK.

Compensation of county commissioners for ditch work under Section 4506 R. S., as amended 98 O. L. 296, limited to \$300 in any one year, as provided by Section 897 R. S.

October 6, 1906.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN: — Your communication of recent date inquiring whether or not Section 4506 R. S., as amended by the last legislature abrogates the limitation of \$300 for ditch work performed by county commissioners, as provided in Section 897 R. S., is received. In reply I beg leave to say the only change effected by the amendment to Section 4506 is in fixing the surveyors' per diem at \$5.00 per day instead of \$4.00. Therefore the law remains the same as far as compensation to county commissioners for ditch work is concerned, as before the amendment, and county commissioners are limited to \$300 in any one year for ditch work as provided in Section 897 R. S.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### TRUSTEES OF SINKING FUND — SALE OF SECURITIES BY.

Sale of securities by trustees of sinking fund of municipal corporation must be advertised, and competitive bids solicited.



November 8, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN:—Your letter of October 30th requests an opinion on the following question:

May the sinking fund trustees of cities, under the powers conferred in Section 110 M. C., sell at private sale, without advertisement and competitive bids, securities held by them, for the satisfaction of any obligations under their control?

The power to sell securities for the satisfaction of certain obligations is conferred upon the sinking fund trustees by Section 110 of the Municipal Code.

“Section 110. The trustees of the sinking fund shall have charge of and provide for the payment of all bonds issued by the corporation, the interest maturing thereon and the payment of all judgments final against the city or village, except in condemnation of property cases. They shall receive from the auditor of the city or clerk of the village all taxes, assessments and money collected for said purposes and invest and and disburse them in the manner provided by law. *For the satisfaction of any obligation under their supervision the trustees of the sinking fund may sell or use any of the securities or money in their possession.*”

This statute contains no direction as to the manner in which the sale shall be conducted, but Section 97 and Section 115 of the Municipal Code being in *pari materia*, may properly be looked to for aid in the construction of the section above quoted.

Section 97 M. C., in substance provides, that whenever a municipal corporation issues its bonds, it shall first offer them at par and accrued interest to the sinking fund trustees in their official capacity, and only after their refusal to take any or all of them at par and interest, *bona fide* for and to be held for the benefit of such corporation, sinking fund or debt, shall such bonds or as many of them as remain, be advertised for public sale. “*All sales of bonds, other than to the sinking fund trustees by any municipal corporation shall be to the highest and best bidder after thirty days notice*, etc. \* \* \* Provided, however, when any such bonds have been once so advertised and offered for sale, and the same or any part thereof remain unsold, then said bonds, or as many as remain unsold, may be sold at private sale at not less than their par value, etc.”

Section 113 M. C., authorizes the trustees to issue coupon or registered bonds of the corporation for certain purposes, and Section 115 provides that such bonds “shall be sold as provided in Section 97 of this act.”

No reason suggests itself why the sale of bonds purchased by the trustees from the city should not be conducted with the same formalities and safe guards required in the sale of bonds issued by the trustees for the purpose of refunding other bonded indebtedness.

The Supreme Court of this state has held, in the case of *Cincinnati v. Guckenberg*, 60 O. S., 353, that the provisions of the code with reference to the sale of bonds by municipal corporations and by sinking fund trustees should be construed together. While the sale considered in that opinion was under authority of the statutes re-enacted with some changes, as Sections 113-115 M. C., and not under Section 110 M. C., the remarks of the court may fairly be applied to the construction of the present Sections 97 and 110 M. C.

“True, it is not uncommon to find in legislation special provisions intended to supplant or supersede, for the special subject matter, some



general provision on the same general subject, but such instances are expected to be so marked, either by force of the language itself, or by necessary implication as to the purpose to be accomplished, as that the meaning shall be plain. \* \* \*

"The sale being required and no method of conducting it having been provided, it follows that we look to other sections for that detail, and it is given in Section 2709, by the requirement of a sale to the highest and best bidder after thirty days' notice by advertisement in newspapers. And as the language of Section 2729g (2) indicates no intent to waive or change this direction as to publicity, but rather emphasizes that purpose, we must conclude that the requirement to advertise is obligatory on the sinking fund trustees, whenever sales are to be made."

I am, therefore, of the opinion that sales of the bonds of a city by the trustees of its sinking fund are governed by the provisions of Section 97 above quoted. They are sales by the municipal corporation within the meaning of this section, although made through the agency of the trustees. The only sale of its bonds by a municipal corporation which may be made without the prescribed formalities is the sale to the sinking fund trustees.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### MUNICIPAL CORPORATION — EXPENDITURES OF — AUTHORITY OF BOARD OF PUBLIC SERVICE.

Board of public service may order expenditure of proceeds of municipal bond issue without consent of council.

November 15, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN: — Your communication of recent date requests an opinion as to the effect of the following provision in a municipal ordinance in so far as it attempts to make the consent of council a prerequisite in every case to the power of the board of public service to order any expenditure of the proceeds of the bond issue authorized by said ordinance.

The proceeds of the bond issue "shall be paid out by the treasurer upon warrants issued by the auditor, on the order of the board of public service and shall be expended by said board for the purposes specified in Section 1 of this ordinance, *after authority therefor has been duly obtained from council.*"

I assume that all the necessary preliminary steps have been taken for the issue of bonds for a specific definite municipal purpose.

Section 123 M. C. provides as follows:

"The powers of council shall be legislative only and it shall perform no administrative duties whatever, and it shall neither appoint nor confirm any officer or employe in the city government except those of its own body, except as may be otherwise provided in this act. All contracts requiring the authority of council for their execution shall be entered into and conducted to performance by the board or officers having charge of the matters to which they relate, and after authority to make such contract has been given and the necessary appropriation made, council shall take no further action thereon."

The purpose of this restriction was said, in *Lillard v. Ampt*, 4 N. P., 305, to be "to emphasize that the respective executive, legislative and administrative functions of the city government should be distinct and independent of one another." And it has further been held that the proper officers of the municipality must execute the municipal contracts and conduct them to performance. (*Knauss v. Columbus*, 13 Dec. 200.) The statute cited and the many opinions bearing upon the subject by the courts, all recognize the limitation thus imposed upon council to be, that where its authority is required, as preliminary to entering into any contract, it confers the authority by appropriate legislation and provides for the appropriation, and thereafter the executive and administrative functions are carried out by the proper officer or department of the city having jurisdiction thereof.

It has been repeatedly held by this department that the sale of bonds, duly provided for, for any specific purpose, constitutes in law an appropriation for that purpose, and the proceeds of such bond issues need not be embraced within the semi-annual appropriation ordinance to be acted upon by the council.

The limitation contained in Section 143 and Section 154 should be observed. They provide in substance that when any expenditure within such departments, other than the compensation of persons employed therein, exceeds \$500, the expenditure shall first be authorized and directed by ordinance of council. But when the authority is conferred by council the expenditure of the fund or funds is made under the direction of the appropriate officer or department.

It therefore follows that when the necessary municipal legislation has been enacted by council providing for the issue and sale of bonds for any municipal purpose, and the authority of council has been obtained for the execution of the contract upon which the proceeds of the bonds are to be expended, the expenditure may be made by the proper officer or department, subject to the limitations hereinbefore referred to, and the auditor may honor vouchers upon such funds without specific authority from the council, notwithstanding the provision in the ordinance above quoted.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### TRANSFER OF MUNICIPAL FUNDS — POWER MAY NOT BE USED TO MAKE EXPENDITURE FROM ANY FUND OF AMOUNT IN EXCESS OF THAT FIXED BY APPROPRIATION.

Authority of council to transfer from one fund to another does not carry with it authority to make expenditures from such transferee fund in excess of amount appropriated by semi-annual "budget" appropriation ordinance, nor for objects other than therein authorized.

To whom annual report of auditor of city to be made.

November 15, 1906.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN: — I have your inquiry of the 8th inst., enclosing the letter of the city auditor of Cincinnati, Ohio, for my consideration and answer. Replying thereto I beg to say that in my opinion the authority contained in Section 43 M. C., to transfer all or a portion of one fund, or a balance remaining therein, to the credit of one or more other funds does not include authority to expend the same. The power to transfer funds, as therein contained, is one power and the power to expend is still another.



The right to transfer funds does not authorize the expenditure of such funds transferred. The limitations upon expenditures of municipal officers are contained in part in the same section in the following language:

"In all municipal corporations council shall make, at the beginning of each fiscal year, appropriations for each of the several objects for which the corporations has to provide, out of the moneys known to be in the treasury, or estimated to come into it during the six months next ensuing from the collection of taxes and all other sources of revenue. All expenditures within the following six months shall be made with and within said appropriations and balances thereof."

This language, in my opinion, does not permit the enlargement of the subjects contained in the budget of appropriations but merely permits, under the circumstances set forth in Section 43 M. C., the redistribution of the moneys within the several funds. The question presented by the city auditor involves the power of council to transfer \$20,000, the proceeds in part of the Dow Tax, from the general fund to the light fund, in order to enable the board of public service to contract for street lamps for equipping certain districts of the city. Such an expenditure must have been authorized by the semi-annual appropriations before the authority could be exercised. It must have been one "of the several objects for which the corporation had to provide," and as such included in the appropriations made. If duly authorized, as above suggested, and there had been for any reason a shortage in the appropriation necessary for that purpose it could have been provided for by the transfer made under the authority of Section 43 M. C., also the expenditure therefrom could not be of any greater amount than that included in the appropriation ordinance for that purpose.

The officer or department to which the city auditor is required to make his annual report is mooted in the letter of the city auditor. Pursuant to Section 44 M. C. the auditor is required to make up monthly a statement of the balance of all funds and accounts in his office as the same exists at the close of business on the last day of the month, a copy of which he is required to forward to the mayor who shall keep it for public inspection. This monthly report, so provided for, is entirely distinct from the annual statement as provided for in Section 36 M. C. That section requires that the auditor of every city "shall furnish to the mayor and council and to each member thereof the following statements which council may require to be printed." (Then follow four different forms of statements.) There is further a detailed statement of all receipts and expenditures to be made by the auditor on or before the third Monday in March of each year concerning which it is not specifically provided to whom the same shall be made, but as the mayor is required to communicate to council a statement of the finances of the municipality it could be safely assumed that there would be a sufficient compliance with Section 1756 R. S., if a copy of such statement, made thereunder, is transmitted to the mayor.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### PARK POLICE — STATUS OF.

Park police of city of Cleveland properly under supervision of board of public service of that city.



November 19, 1906.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—I have your recent inquiry regarding the so-called “park police” of the City of Cleveland, asking this department for an opinion as to whether such police are under the jurisdiction of the board of public safety or of the board of public service of the city. I have communicated with the city solicitor of Cleveland who has furnished me the ordinances under which such policemen are appointed, in which they have been designated as “care takers” of the parks and the history of the appointment of such employes shows that for more than fifteen years in that city the parks have been protected by such “care takers” under the jurisdiction of the public department having the management of the parks and boulevards; that since the enactment of the municipal code these “care takers” have been continued by the city law department under the jurisdiction of the department of public service pursuant to the powers conferred upon such department by Sections 141 and 145 M. C.

In my opinion such “care takers” are not and should not be considered as part of the police department as defined in Sections 148 and 149 M. C., and under the peculiar service rendered by them in connection with the park system of that city they are properly placed under the jurisdiction of the board of public service.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*


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#### ELECTIONS — EXPENSE OF — DISTRIBUTION BETWEEN COUNTY AND MUNICIPAL CORPORATION OR TOWNSHIP.

General rule — election expenses are chargeable to county; expense of place of holding elections chargeable to municipal corporation or township; expense of publication of mayor’s proclamation of election chargeable to municipal corporation; that of police officers at polls chargeable to municipal corporation; that of registration chargeable to municipal corporation.

November 27, 1906.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—In response to your request for an opinion upon the several questions presented by you in regard to the distribution of election expenses as between municipal corporations and townships upon the one side and the counties in which they are situate upon the other, I beg to point out as the primary rule for determining such distribution that our present system of supervising elections is one of county boards and not of city boards. The so-called Hypes Law, 97 O. L. 185, was enacted for the purpose of establishing a constitutional and uniform system of conducting elections throughout the state and the county was adopted as the unit of that system. Accordingly, whenever any expense arises in the conduct of elections, such expense is to be borne by the county except in so far as a different intention appears by statute. This appears from that part of Section 2926*t* reading as follows:

“But for all November elections the county in which such city is located shall pay the general expenses of such election other than the expenses of registration.”

The expenses incident to registration are provided for by Section 2926*t*. It is to be observed that Section 2926*t* especially exempts the county from the expenses of registration and imposes upon the county all the other "general expenses of such election." Other sections of the statutes seem to exempt certain expenses which apparently are not among the "general expenses" covered by Section 2926*t*.

By the provisions of Section 1443 the township trustees are authorized to fix the place of holding elections within their township, including all the precincts thereof, and may purchase or lease suitable property to that end.

Under the provisions of Section (1536-982) Bates, original Section 1725 R. S., the council of all municipal corporations shall designate the place or places for holding the regular elections; and in all corporations divided into wards, there shall be a place or places in each ward designated for holding elections.

By Section 2923 it is provided:

"Elections shall be held for every township precinct at such place within the township as the trustees thereof shall determine to be most convenient of access for the voters of such precinct, and for each municipal or ward precinct, at such place as the council of the corporation shall designate.

"Provided, that in registration cities, the deputy state supervisors of elections shall designate such place of holding elections in each precinct."

Section 2926*c* authorizes the board of elections to fix the place of registration and election in registration cities and directs such boards to "provide suitable booths or hire suitable rooms for such purpose and for their own office, at such rents as they deem just."

By Section 2926*d* it is provided that "the cost of the rents, furnishing and supplies of all rooms hired by the said board for their offices and for places of registration of electors and holding of elections in such cities shall be borne and paid, by any such city out of its general fund."

Taking up your several inquiries in detail I beg to express my opinion as follows:

First. All expenses incidental to registration must be paid by the city.

Second. The *place* of holding elections in municipalities must be provided by the municipal corporation and in precincts outside municipalities by the township in which such precinct is located.

Third. The expense of publishing the mayor's proclamation of election, being a duty imposed exclusively upon a municipal officer and not upon the election board, should be borne by the municipality and for the same reason the expense of police officers at the polls should be borne by the municipal corporation.

Fourth. All the other expenses are to be borne by the county.

Fifth. It is within the express power of the city auditor to require evidence that a voucher is properly and legally drawn upon him, and he may, for this purpose, even subpoena witnesses upon the facts warranting the issue of such voucher.

I return to you herewith the several letters submitted by you.

Very respectfully,

WADE H. ELLIS,

*Attorney General.*



## ELECTIONS — EXPENSE OF — DISTRIBUTION BETWEEN COUNTY AND MUNICIPAL CORPORATION OR TOWNSHIP.

In registration cities, expense of board of deputy state supervisors of elections divided between county and city proportionally as total expense compares with expense of registration.

December 6, 1906.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—In answer to your further inquiry relating to the expenses of holding elections I beg to say that in registration cities the city is liable for so much of the rent of the offices of the Board of Supervisors and the furnishings and supplies thereof as represents the proportion of the whole business of the offices devoted exclusively to registration; the balance shall be paid by the county. The furnishings and supplies above mentioned include the heating and lighting of the offices of the board.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## ASSESSMENTS — SPECIAL MUNICIPAL — ALTERATIONS IN.

Council may make alterations in special municipal assessments, upon objection thereto, before certification to county auditor; proper procedure for making objection; neither city engineer nor city solicitor may make such alterations; clerical mistakes may be corrected by council before certification to county auditor.

December 17, 1906.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Your letter of the 13th inst. contains several inquiries which it is not necessary to consider separately as they are incident to the main proposition of whether any city officials and, if so, which one, can reduce the amount of any special assessment against any particular piece of property and what procedure is involved therein.

After the several steps have been taken preparatory to levying an assessment upon property benefited by an improvement, as required by the Municipal Code and related sections of the Revised Statutes, the parties assessed have the privilege of filing their objections in writing with the clerk within two weeks after the expiration of the publication of the notice of assessment. When such objections are filed it becomes the duty of the city council to appoint an equalizing board composed of three disinterested freeholders of the corporation. Pursuant to Section 69, such board shall hear and determine *all objections* to the assessment and shall equalize the same, as they think proper, and shall report the equalized assessment made by them to the council, which has the power to confirm the same or set it aside and cause a new assessment to be made and appoint a new equalizing board.

When the assessment is confirmed by the council *it shall be complete and final*, and shall be recorded in the office of the clerk of the council. By this provision an opportunity is given to every one interested to present any objection to the assessment and if the opportunity thus presented is not taken advantage of, the right to object thereto, or to secure any reduction, alteration or change in



the same *before any municipal officer or the city council, is lost.* Until the assessment is confirmed by the council the interested party may secure his relief, contemplated in your first question, by proceeding before the equalizing board.

No power is given to the city engineer and city solicitor or to either of them to make any alteration in the assessment, but if there is a clerical mistake occurring therein the council has the authority to correct the same before final approval of the assessment, upon being satisfied of such error.

After the assessment has been certified to the county auditor, as contemplated in your fourth question, there is no power conferred upon the city council, or any other city board or official, to make any alteration or change in the assessment so certified.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### INSOLVENCY COURT OF HAMILTON COUNTY — COMPENSATION OF JUDGE AND DEPUTIES.

Under Hamilton county salary law as originally enacted, compensation of judge of insolvency court of Hamilton county equal in amount to that of probate judge of said county, payable out of fee fund; under said act as amended April 21, 1896, such compensation equal in amount to that of probate judge of said county, payable out of general fund; after said act declared unconstitutional, such compensation equal in amount to that of probate judge of said county, payable out of general fund, while compensation of deputies and assistants of said judge payable out of fee fund; county salary act of 1906 governs compensation of judge of said court and of his deputies and assistants, after January 1, 1907.

December 18, 1906.

*Bureau of Inspection and Supervision of Public Offices, Department of Auditor of State, Columbus, Ohio.*

GENTLEMEN: — Your letter of recent date requests an opinion as to the compensation fixed by law for the Judge of the Court of Insolvency in Hamilton County, and for the clerks employed by him. The questions presented are intricate and I have taken time to discuss them fully with some of the officials interested in their proper solution before rendering a formal opinion to you.

A full discussion of these questions necessarily covers a period of time extending from May 21st, 1894, the date of the establishment of the court, to January 1st, 1907, when the new salary law goes into effect. This period may, for the purpose of this opinion, be divided into four shorter periods as follows: First, from the establishment of the court, May 21st, 1894, to the date of the amendment of the original act, April 21st, 1896; Second, from April 21st, 1896, to November 17th, 1903, the date of the decision in *State v. Lewis*, (69 O. S., 202); Third, from November 17th, 1903, to January 1st, 1907, the date when the new salary law goes into effect; Fourth, after January 1st, 1907.

*First: What was the compensation fixed by law for the Judge of the Court of Insolvency in Hamilton County, and for the clerks employed by him for the period commencing May 21st, 1894, and ending April 21st, 1896?*

The original act establishing the insolvency court provided that the judge should "receive the same compensation and be paid in like manner as the judge of the probate court of said county wherein said courts of insolvency are established." (91 O. L., 844, Section 3.)

At this time the Probate Judge of Hamilton County received a salary of \$5,000 (Section 1345 and Section 1347 R. S.). All fees collected were paid into the county treasury into the county officers' fee fund from which the salaries of employes of the court were paid monthly, on warrant of the county auditor. The constitutionality of the Hamilton County Salary Law was not questioned at this time, and the legislature must have intended that the provisions of this law, as to salary and fees of the probate judge, should, for the time being, regulate the salary and fees of the insolvency judge.

No express provision was made in the insolvency act for the compensation of deputy clerks, but the appointment of such clerks was authorized (Section (548-7)), and the provisions of Section (548-9) and Section (548-16) quoted *infra* are broad enough to make applicable to the insolvency judge the provisions of the special salary law as to the compensation of deputies of the probate court. (See Sections 1342, 1343, 1346, 1348 and 1350 R. S.) During the first period, then, both the salary of the insolvency judge and the manner of compensation of his employes were fixed by the special act governing the probate court of Hamilton County.

It will aid in the determination of the important question whether the change in the salary of the Probate Judge, by the recent salary law, operates to change the salary of the Judge of the Insolvency Court, to consider what effect such change in the salary of the Probate Judge would have had if made during the earlier periods in the history of the insolvency court.

The act establishing the insolvency court evidences throughout an intention to make the general body of laws governing the probate court apply also to the insolvency court. Not only are existing laws governing the probate court made applicable to the insolvency court, but the act expressly and repeatedly refers to such laws now in force, or that may hereafter be enacted, and declares that they shall be held to extend to the insolvency court "unless the same be inconsistent with this act or plainly inapplicable."

Section 9 provides that the court of insolvency shall

"discharge the same duties and incur the same penalties as are now or may hereafter be enforced or enjoined by the constitution and laws of the state upon the judge of the probate court."

Section 16 provides:

"All laws now in force or hereafter enacted, regulating the fees of the probate court and the mode and manner of making out, filing and recording an itemized account of all fees received by the probate court, shall be held and deemed to be applicable to said court of insolvency."

See also Sections (548-10), (548-12), (548-13).

The rule of construction in such cases is stated in Lewis's Sutherland Statutory Construction, Section 405, as follows:

"There is another form of adoption wherein the reference is not to any particular statute or part of a statute, but to the law generally which governs a particular subject. The reference in such case means the law as it exists from time to time or at the time the exigency arises, to which the law is to be applied. \* \* \*"

See also Section 406.



It may be conceded that if the act establishing the insolvency court had specifically referred to the provisions of the Hamilton county salary act, a repeal or amendment of the sections expressly referred to would have had no effect so far as the insolvency court is concerned. (Lewis's Sutherland Statutory Construction, Section 405.) But no such specific reference was made, and the original act taken as a whole indicates no intention to fix a compensation for the judge of the insolvency court differing either in amount or manner of payment from the compensation which then was, or might thereafter be fixed for the Probate Judge. On the contrary the whole plan seems to have been to keep the courts, as near as might be, on an equal footing in every respect.

If, then, a change in the salary of the Probate Judge had been made by legislation, during this first period, it would have resulted in a corresponding change in the salary of the Insolvency Judge.

*Second: What was the compensation fixed by law for the judge of the court of insolvency in Hamilton county and for the clerks employed by him for the period commencing April 21st, 1896, and ending November 17th, 1903?*

On April 21st, 1896, Section 3 of the insolvency court act was amended to read as follows:

"That said judge when elected shall give a like bond and be qualified and shall receive the same compensation as the judge of the probate court of said county wherein such courts of insolvency are established, and shall be paid out of the county treasury on the warrant of the county auditor, in quarterly installments."

The only change effected by this amendment was in the fund from which the salary of the insolvency judge was to be paid. This change appears to have been made because the fees collected in the insolvency court were insufficient to pay its running expenses and also to pay the judge a salary equal to that received by the Probate Judge. If this was the purpose of the amendment it emphasized the intention of the legislature to keep the compensation of the Insolvency Judge equal to that of the Probate Judge. It is as though the legislature had declared that even though the fees collected by the Insolvency Judge are not sufficient for the purpose, he shall be paid the same salary as the Probate Judge.

If the purpose of the amendment was to prevent future changes in the salary of the Probate Judge from applying to the Insolvency Judge, it is hard to explain the retention of the very clause which referred to the salary of the Probate Judge as the measure of the compensation of the Insolvency Judge. I am therefore of the opinion that after the amendment, as before, any change in the amount of the salary of the Probate Judge, and any change in the schedule of fees of that court, would equally affect the salary and fees of the Insolvency Judge.

*Third: What was the compensation fixed by law for the Judge of the Court of Insolvency in Hamilton county and for the clerks employed by him for the period commencing November 17th, 1903, and ending January 1st, 1907?*

On November 17th, 1903, the Supreme Court held the Hamilton county salary law unconstitutional, but the execution of the judgment was suspended until June 24th, 1904, (State v. Lewis, 69 O. S., 202.). The Probate Court of Hamilton County thereupon became subject to the general laws governing probate courts



throughout the state. This change in the compensation of the Probate Judge from fees to salary was manifestly not foreseen, nor provided for, by the legislature. Whatever the purpose of the 1896 amendment may have been, the effect of the express provision that the compensation of the judge should be paid out of the county treasury on warrant of the County Auditor, in quarterly installments, was to prevent future changes in the compensation of the Probate Judge, from salary to fees, from being applicable to the Insolvency Judge.

After the decision in *State v. Lewis*, the Probate Judge was no longer obliged to pay his fees into the county treasury. His net compensation thereafter was the difference between the amount of fees collected and the expense of maintaining the court. It is unreasonable to suppose that the legislature intended this sum to be the measure of compensation of the Insolvency Judge, to be paid to him out of the county treasury. It is unreasonable to suppose that the legislature intended the Insolvency Judge should collect fees, which, under the general law governing Probate Judges, he would not be compelled to pay into the county treasury, and should also be paid an amount equal to the sum of said fees out of the county treasury. It is unreasonable to imply a requirement that the Insolvency Judge should pay his fees into the county treasury only to receive back, in quarterly installments, the exact amount of the fees paid in.

The provision for the compensation of the judge for salary is so intimately related to the provisions for the disposition of his fees and the payment of his employes that if the section of the special salary act as to salary is left in force the other related sections must also be held to be in force unless necessarily abrogated by the decision in *State v. Lewis*.

It does not follow from the fact that the provisions of the special salary act were unconstitutional, as applied to the probate court, that such provisions would be held unconstitutional as applied to the insolvency court. The decision was based upon the ground that any law fixing the compensation of the *officers therein referred to* must be of general application throughout the state. (*State v. Lewis*; *State v. Yates*, 66 O. S., 546.)

The insolvency court was created by a special act of the legislature, for a single county (*State v. Bloch*, 65 O. S. 370), while the probate court is expressly provided for by the Constitution and exists in every county in the state (Article 4, Section VII).

I am therefore of the opinion that the decision of *State v. Lewis* did not affect the duty of the Insolvency Judge to pay into the county treasury the fees, penalties, etc., collected through said court, nor the manner of payment of the clerks of the court out of the county treasury from the fee fund.

If the Judge of the Court of Insolvency has hitherto paid his clerks out of the fees collected through his office before turning the same over to the county treasury, such payments should be allowed as credits against the amount with which he would be charged as the proceeds of his office. The question whether deputies should be paid out of the county treasury as provided by the Hamilton county salary law, or out of the fees in the hands of the Insolvency Judge is not, therefore, of much moment. It will be of no importance after January 1st, 1907, if the new salary act is applicable to the court of insolvency.

The decision in *State v. Lewis* clearly could not operate to change the construction of the language of the insolvency act. No part of this act was construed in that case. If, prior to *State v. Lewis*, the true construction of the insolvency act was that legislative changes in the salary of the Probate Judge should equally affect the salary of the Insolvency Judge, then that remained the true construction after this decision.

*"Fourth: What law will govern the compensation of the Judge of the Court of Insolvency in Hamilton county and the compensation of the clerks employed by him, after January 1st, 1907?"*

The provisions of the new salary act (98 O. L. 89) are quite similar to those of the old special act except as to the substitution of special fee funds for the general one provided for by the former act and as to the manner in which the amount of the salary of the Probate Judge is fixed. If the recent act had been passed in 1896, prior to the amendment to section 3 of the insolvency act, and prior to the decision in *State v. Lewis*, it would scarcely have occurred to any one to question its applicability to the insolvency court. But I have endeavored to show that the amendment and decision referred to did not change the plan of the original law.

I am therefore of the opinion that after January 1st, 1907, the salary of the Judge of the Insolvency Court, and the manner in which the clerks could be compensated, will be governed by the provisions of the new salary law (98 O. L. 89). The salary of the judge will, however, be paid out of the county treasury as hitherto, in accordance with the provisions of Section (548-3), R. S., instead of from the fee fund as provided by 98 O. L., 89, Section 11. Future changes in the salary of the Probate Judge will equally affect the salary of the Insolvency Judge, unless the law making such change expresses a contrary intention.

The estimate of expenses for 1907, provided for by section 3 of the salary law, should be made at the earliest possible moment. The requirement that it be filed before November 20th, 1906, is directory.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### SHERIFF — EXPENSE OF, UNDER COUNTY SALARY LAW.

Under county salary law, 98 O. L., 89-96, horses and vehicles for use of sheriff may be furnished as well as maintained at county expense; expense incurred in service of process and subpoenas by sheriff may not be paid by county; meals and lodging paid for by the sheriff or deputies when engaged in work, the expense of which is authorized by said act to be paid, may be included in such expense; expense of handcuffs, revolvers and postage may not be paid by county; telephones in sheriff's office may be paid for by county.

December 20th, 1906.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN: — Your communication of recent date submitting the following inquiries relating to the sheriff's office under the new county salary law, is received.

1. Is the county or the sheriff required to furnish the necessary horses and vehicles for the proper conduct of the duties of the office? (Sec. 19.)

2. May the sheriff be reimbursed for actual expenses incurred for railroad fare, livery hire or other expenses of transportation in serving civil processes, subpoenas in criminal cases, summoning juries, etc., etc., or can he be reimbursed only for the expenses incurred in pursuing or transporting persons accused or convicted of crimes and offenses and in conveying persons to the various state institutions? (Sec. 19.)



3. Does "necessary expenses incurred" as used in Sec. 19, cover personal expenses of the sheriff or his deputies, such as meals and lodging?

4. Is the county required to furnish hand-cuffs, revolvers, badges, etc., for the sheriff's office?

5. Is the county required to pay for postage and telephone service, used in the discharge of his official duties?

In reply I beg leave to say the determination of all of the above questions, except the last two, involves a construction of Section 19 of the county salary law (98 O. L., page 89-96), which fixes sheriff's additional compensation.

Section 19 of the county salary law is as follows:

"The county commissioners shall in addition to the compensation and salary herein provided, make allowances quarterly to every sheriff for keeping and feeding prisoners under section 1235 of the Revised Statutes, and shall allow his actual and necessary expenses incurred or expended in pursuing or transporting persons accused or convicted of crimes and offenses, in conveying and transferring persons to and from any state asylum for the insane, the institution for feeble-minded youth, Ohio hospital for epileptics, boys' industrial school, girls' industrial home, county homes for the friendless, houses of refuge, children's homes, sanitariums, convents, orphan asylums or homes, county infirmaries, and all institutions for the care, cure, correction, reformation and protection of unfortunates, and all expense of maintaining horses and vehicles necessary to the proper administration of the duties of his office. Every sheriff shall file under oath with the quarterly report herein provided for, a full, accurate and itemized account of all his actual and necessary expenses, mentioned in this section before the same shall be allowed by the county commissioners."

The first question involves the construction of the following language contained in the above section:

"The county commissioners \* \* \* shall allow \* \* \* all expense of maintaining horses and vehicles necessary to the proper administration of the duties of his office."

In my opinion the word "maintaining" as used in this section should be so construed as to authorize the county commissioners to furnish at the county expense the necessary horses and vehicles for the use of the sheriff in the discharge of his duties, or, if the sheriff owns a sufficient number of horses and vehicles to allow the expense of maintaining them.

*Second.* Section 19 in fixing sheriff's additional compensation specifically enumerates the additional compensation sheriffs are to receive in the allowance of actual and necessary expenses incurred or expended. That is, county commissioners shall allow the sheriffs actual and necessary expenses

" \* \* in pursuing or transporting persons accused or convicted of crimes and offenses, in conveying and transferring persons to and from any state asylum for the insane, the institution for feeble-minded youth, Ohio hospital for epileptics, boys' industrial school, girls' industrial home, county homes for the friendless, houses of refuge, children's homes, sanitariums, convents, orphan asylums or homes, county infirmaries, and all institutions for the care, cure, correction, reformation and protection of unfortunates," \* \* \*



Section 19 makes no provision authorizing the county commissioners to allow "actual and necessary expenses" incurred for railroad fare, or other means of transportation in serving civil processes, subpoenas in criminal cases, summoning juries, etc., other than the expenses to be allowed for the maintenance of necessary horses and vehicles. I cannot understand how the legislature would fail to make provision for necessary expenses incurred by the sheriff in paying railroad and traction car fare in serving civil processes and subpoenaing witnesses in civil and criminal cases. It will certainly work an inconvenience if not a miscarriage of justice in many cases if the sheriff is compelled to use horses and vehicles as his only means of transportation. Cases will arise where the immediate attendance of witnesses is required in the trial of both civil and criminal cases and the sheriff ought to have the right in serving subpoenas in such cases to use the most convenient and expeditious mode of transportation. But the legislature has failed to authorize such expenses; and in my opinion, sheriffs will be compelled to rely entirely upon horses and vehicles in the services of all processes both civil and criminal, unless they pay their own expenses.

*Third.* "Necessary expenses incurred," as used in Section 19 does, in my opinion, include necessary meals and lodging for the sheriff or his deputies when actually paid for.

*Fourth and Fifth.* In answer to these two questions Section 19 of the county salary law makes no provision for the payment of any such expenses as here enumerated and I am of the opinion that the county commissioners cannot be required to furnish hand-cuffs, revolvers, badges or postage for the use of the sheriff in the discharge of his official duties. I believe, however, that the county commissioners may, under Section 859 which provides that the county commissioners shall provide "offices for the county officers," furnish such offices with telephones and such other equipment as they deem necessary for the proper discharge of official duties.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

(To the Treasurer of State.)

DEPOSITORY — STATE — NATURE OF SECURITY REQUIRED TO BE OFFERED BY.

Bonds given by state depositories continuing guaranties.

January 31st, 1906.

HON. W. S. MCKINNON, *Treasurer of State, Columbus, Ohio.*

DEAR SIR: — You have submitted to this department the following inquiry:

“Whether or not the bonds given by the depositories designated as state depositories are continuing guaranties and whether or not new bonds should be required from such state depositories, annually, or at the close of the term of the Treasurer of State who has made a deposit with such depository?”

Section 5 of the act entitled “An act to provide a depository for state funds,” approved May 3rd, 1904, (97 O. L. p. 536, Sec. (200-7) R. S.) provides among other things that the bonds given by state depositories shall be conditioned for the receipt and safe keeping and payment over to the Treasurer of State or upon his written order of all money which may come into the custody of such depository under and by virtue of this act, and said bond shall include a special obligation to settle, etc.

In the form of bond submitted by you is the condition that if the designated depository shall pay over to the Treasurer of State for the use of the State of Ohio, upon demand made therefor or upon his written order, any and all moneys which from time to time hereafter may come into the custody of such designated depository, under and by virtue of the act referred to, free from any discount or deduction of any kind therefrom, and shall further pay to the Treasurer of State for the use of the State of Ohio interest upon the daily balances on such deposit or deposits at the rate of — per centum per annum, payable at the time mentioned in said act without demand, and shall do each and every act as required of such depository by the terms of said act and shall save the State of Ohio free from any loss whatsoever upon such deposit or deposits made with the said designated depository, then this obligation shall be void, otherwise it shall be and remain in full force and effect.

These bonds are executed by the depositories and sureties to the State of Ohio, and not to the Treasurer of State.

A surety on a bond is liable for the defaults of the principal from the time the bond is given.

*Bantell v. Wheeler*, 195 Ill. 455.

The liability of such surety company continues during the time mentioned in the bond (*Coleman v. People*, 78 Ill. App. 215) and during the term of the agency, for the faithful performance of which the bond is given.

*Rockford Ins. Co., v. Rogers*, 15 Colo. App. 27.

When a bond recites that the principal will discharge the duties of the office (during the time he holds the appointment and until he is relieved therefrom) the liability of a surety does not cease before the revocation of the appointment.

*Mobile, etc. R. Co. v. Brewer*, 76 Ala. 141.

The rule of limitation as to the duration of the liability of a surety is this:

“When the words of the condition of a bond are general and indefinite as to the time during which the surety shall remain liable, if there is a recital in the bond specifying the time during which the prescribed duty is to be performed by the principal the general words will be limited by the recital and the surety will only be liable the time therein specified.”

Brandt on Suretyship, Section 138.

It logically follows that where the words in the condition of the bond are general and indefinite as to the time during which the surety shall remain liable, and there is no recital specifying any particular time for the continuing of such liability, such bond is a continuing guaranty and the surety remains liable.

Where the guarantors of a bank selected as state depository executed a bond to the state that the bank shall

“well and faithfully account for and pay over all moneys deposited with it or for which it shall in any way become liable”

and also

“account for and pay over all moneys now on deposit in said bank or due or to become due therefrom to the people”

it was held in an action on such guaranty that the guarantors were bound as a continuing security for the deposit existing at the time of the execution of the bond, as well as for subsequent deposits.

People v. Lee et al., 104 N. Y. 441.

The condition of the bond submitted being as herein recited, such form of bond furnishes a continuing security for all demands existing against the depository as well as for all that may arise under the terms of the contract with the depositories.

I am of the opinion, therefore, that bonds given by state depositories, if they conform to the form submitted by you, are continuing guaranties and that it is not necessary that new bonds be executed annually or upon the expiration of the term of the Treasurer of State.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

#### OHIO UNIVERSITY—DISPOSITION OF BEQUEST TO.

Fund bequeathed to trustees of Ohio University for specified purpose cannot be accepted as part of the irreducible debt.

August 8th, 1906.

HON. W. S. MCKINNON, *Treasurer of State, Columbus, Ohio.*

DEAR SIR:—I have yours accompanied by a letter from Dr. Alston Ellis, President of the Ohio University, inquiring whether a fund of \$1,000 bequeathed to the trustees of the Ohio University for a certain specified educational purpose, can be accepted as part of the irreducible debt of the state?



The irreducible debt of the state consists only of those funds arising under Section 1, of Article VI of the Constitution, and inasmuch as this bequest was to the trustees of the Ohio University and by them accepted and not directly to the State of Ohio and accepted as such by the general assembly of the State of Ohio, it is not such a fund as that mentioned in the section of the Constitution referred to and cannot, therefore, be accepted by you and made a part of the irreducible debt.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

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#### SAFE DEPOSIT AND TRUST COMPANY — DEPOSIT OF.

Duty of treasurer of state, upon dissolution of safe deposit and trust company, as to surrender of deposit made under Section 3821*d*, R. S.

October 9th, 1906.

HON. W. S. MCKINNON, *Treasurer of State, Columbus, Ohio.*

DEAR SIR:— Acknowledging the receipt of yours of the 3rd inst., enclosing a communication from George D. Copeland of Marion, Ohio, regarding the surrender of the deposit made by the Central Ohio Loan and Trust Company with your department, I beg to say that these deposits are made pursuant to Section 3821*d* of the Revised Statutes. If the Central Ohio Loan and Trust Company has dissolved and retired from the business contemplated by its charter, you should, before surrendering the deposit made by it, satisfy yourself by a proper certificate that the dissolution has been effected, and that the company has surrendered its corporate powers. You should further protect yourself as Treasurer by a good and sufficient bond, executed by the parties in interest, covering any outstanding liabilities of such company. I think you would be justified, on the execution of such bond as is satisfactory to you, in delivering over to the parties entitled thereto the deposit in question.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

(To the State Commissioner of Common Schools.)

TEXT BOOKS — SUBSTITUTION OF.

Substitution of text books under Section (4020-14) R. S., effective during remainder of five year period after original adoption.

April 27th, 1906.

HON. EDMUND A. JONES, *State Commissioner of Common Schools, Columbus, Ohio.*

DEAR SIR: — Your letter dated April 25th inquiring whether or not when text books are substituted under Section (4020-14), Revised Statutes of Ohio, they shall be used for a period of five years from the date of such substitution or for the remainder of the five year period for which text books were originally adopted, is received.

The portion of section (4020-14) R. S., involved is as follows:

“But no text books so adopted shall be changed, nor any part thereof altered or revised, nor shall any other text books be substituted therefor, for five years after the date of the selection and adoption thereof without the consent of three-fourths of all the members elected, given at a regular meeting.”

Under this provision it is my opinion that after text books have been adopted, any substitution will be for the remainder of the five year period after said substitution.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

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SCHOOL EXAMINERS — ELIGIBILITY OF WOMEN TO APPOINTMENT AS.

Women eligible to appointment as members of county and city boards of school examiners.

July 11th, 1906.

HON. EDMUND A. JONES, *State Commissioner of Common Schools, Columbus, Ohio.*

DEAR SIR: — I beg to acknowledge the receipt of your letter of July 9th in which you request my opinion upon the following question:

“Are women eligible to appointment on county and city boards of school examiners, and can they legally serve as members of such boards in the State of Ohio?”

Section 4069, R. S., which prescribes the qualifications of county examiners, provides:

“There shall be a county board of school examiners for each county, which shall consist of three competent persons to be appointed by the probate judge. Two of such persons shall have had at least two years' experience as teachers or superintendents, and shall have been within five

years, actual teachers in the public schools. Each person so appointed shall be a legal resident of the county for which he is appointed, and, should he remove from the county during his term, his office shall be thereby vacated and his successor be appointed. No examiner shall teach in, be connected with, or be financially interested in any school which is not supported wholly or in part by the state, or be employed as an instructor in any teachers' institute in his own county; nor shall any person be appointed to the position, or exercise the office of examiner who is agent of or is financially interested in any book publishing or bookselling firm, company or business, or in any educational journal or magazine. \* \* \*

Section 4077, R. S., which prescribes the qualifications of city examiners, provides:

"There shall be a city board of school examiners for each city school district, to be appointed by the board of education of the district; such board shall consist of three persons, and the majority of the persons appointed shall have at least two years' practical experience in teaching in the public schools and all persons appointed shall be otherwise competent for the position and residents of the district for which they are appointed. \* \* \*

The remainder of these statutes and other sections relating to the duties of examiners do not afford any assistance in the determination of the question submitted.

It is within the constitutional power of the legislature to authorize the appointment or election of women to positions of an official character under the school laws.

State v. Cincinnati, 19 O., 178;

State v. Board of Education, 9 O. C. C., 134;

State v. Adams, 58 O. S., 612, 616.

Section (3970-12) R. S., authorizes women "to vote and to be voted for, for member of the board of education and upon no other question."

Members of the board of examiners are not elected but are appointed by the Probate Judge or by the board of education.

The word "persons" used in the statutes describing the qualifications of school examiners includes women unless the context or the subject matter shows that this could not have been the intention of the legislature. In re Hall, 50 Conn. 31.

The pronouns "he" and "his" used to refer to the appointee are the sole indication that the legislature intended the appointment to be conferred on male persons only. Section 23 R. S., provides, however, that,

"Unless the context shows that another sense was intended \* \* \* words in the masculine include the feminine and neuter gender."

The context does not show that another sense was intended and since the office of school examiner is one which may properly be filled by a woman, I am of the opinion that women may be appointed members of the city and county boards of school examiners.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



## FENCES — DUTY OF BOARD OF EDUCATION AS TO.

July 16, 1906.

HON. E. A. JONES, *State Commissioner of Common Schools, Columbus, Ohio.*

DEAR SIR:—In reply to your request for an opinion from this office as to the duties and liabilities of boards of education of township and village school districts with reference to fences enclosing school-houses, I beg to advise you as follows: Section 3987 R. S. provides:

“The board of education of any district is empowered to build, repair and furnish the necessary school-houses, purchase or lease sites therefor, or rights of way thereto, or rent suitable school-rooms, provide all the necessary apparatus and make all other necessary provisions for the schools under its control; also, the board shall provide fuel for schools, build and keep in good repair all fences inclosing such school-houses, plant when deemed desirable shade and ornamental trees on the school-grounds, and make all other provisions necessary for the convenience and prosperity of the schools within the subdistricts.”

The duty of enclosing school lots with fences and of keeping the same in repair was probably imposed upon the boards of education because of the unusual burden which would otherwise fall upon the adjoining land owners. Such fences are usually subjected to hard usage and frequent repairs are likely to be necessary through no fault of the adjoining owner. The duty is enjoined for the protection of private rights and may be enforced by any person having special interest in its enforcement.

I do not believe that the boards could be compelled to build a fence between the school-house and the public highway since I am not able to see what special interest of any individual would be affected by the existence or non-existence of such a fence.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## COUNTY COMMISSIONERS — AUTHORITY OF, TO MAKE SCHOOL LEVY.

County commissioners may make additional levy for school purposes when board of education of any school district fails to certify sufficient levy before first Monday in June.

July 21, 1906.

HON. EDMUND A. JONES, *Commissioner of Common Schools, Columbus, Ohio.*

DEAR SIR:—When the board of education of any school district fails to certify a levy for a sufficient amount to the county auditor on or before the first Monday in June, I am of the opinion that the county commissioners may make and certify such additional levy as may be necessary for school purposes at any time before the first Monday in August. Section 3960 R. S.; Section 3969, 98 O. L. 249.

If the authority of the county commissioners is limited to levying a contingent fund for incidental expenses only, and not for use as a building fund, tuition fund or interest fund, the whole purpose of Section 3969 is apt to be defeated. In case the board of education makes no levy the county commissioners must have power to make levies of every sort in order to "provide sufficient school privileges for all youth of school age, to provide suitable school houses for all the schools under its control, etc." The words "contingent fund" first appear in Section 3969 R. S., in the revision of 1880. The word "contingent" is not used in the original law but at the time of the revision of 1880, Section 3958 provided for a "contingent fund for the continuance of the school or schools of the district after the state funds are exhausted, to purchase sites for school houses, to erect, purchase, lease, repair, and furnish school houses, and build additions thereto, and for other school expenses." While Section 3958 now provides for separate levies for different funds, I do not believe this statute was intended to limit the general power of county commissioners to make such levies as may be necessary to carry out the general purpose expressed in Section 3969.

Very truly yours,

C. P. HINE,

*Asst. Attorney General.*

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#### SEWER ASSESSMENT — LIABILITY OF SCHOOL PROPERTY FOR.

School property not chargeable for sewer assessment; proportion should be certified to county auditor for entry on general tax list of municipality.

July 21, 1906.

HON. E. A. JONES, *State Commissioner of Common Schools, Columbus, Ohio.*

DEAR SIR:— I am of the opinion that school property is not chargeable for a sewer assessment nor can judgment be rendered against the board of education for the payment of such assessment out of its contingent fund. *City of Toledo v. Board of Education*, 48 O. S. 83, *Board v. Auditor*, 35 W. L. B. 29.

When a city improvement passes by a school building the council may authorize the proper proportion of the estimated cost of the improvement to be certified to the county auditor and entered on the tax list of all taxable property in the corporation. Section 63, Municipal Code.

Very truly yours,

C. P. HINE,

*Asst. Attorney General.*

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#### CONSTRUCTION OF SECTION 4073 REVISED STATUTES.

The words "school districts" and "such districts," in Section 4073 R. S., refer to "village, township and special districts."

July 25, 1906.

HON. E. A. JONES, *State Commissioner of Common Schools, Columbus, Ohio.*

DEAR SIR:— You have requested a written opinion from this department as to the construction of the following provision of Section 4073 R. S.

"And said certificates shall be valid in all village, township, and special school districts of the county wherein they are issued, but in all school districts situated in two or more counties teachers' certificates obtained in either county shall be valid in such districts."

The words "school districts" and "such districts" in the last clause in the above quotation both refer to village, township and special school districts.

While sub-districts are still recognized and still exist for certain purposes there is nothing in the language of Section 4073 which permits of the construction that the words "such districts" refers to sub-districts. The statute must be construed as if the words "village, township and special school districts" were substituted for the words "school districts" and "such districts."

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### TEACHER — COMPENSATION OF.

Contract between board of education and teacher providing for janitor services without extra compensation and for forfeiture of compensation for holidays invalid.

July 27, 1906.

HON. E. A. JONES, *State Commissioner of Common Schools, Columbus, Ohio.*

DEAR SIR:—I have received your communication asking: "What is the effect of a contract between the board of education and a school teacher which provides that a teacher shall work at \$2.00 per day but shall receive no extra pay for janitor work and no pay on holidays?"

In reply thereto I will say that in my opinion the above contract has two illegal provisions. One provision violates Section 4018, which provides that:

"No teacher shall be required by any board to do the janitor work of any school-room except as mutually agreed by special contract and for compensation in addition to that received by him for his services as teacher."

The other provision violates Section 4015, which permits teachers to dismiss their schools on holidays without forfeiture of pay. The teacher is not bound by these provisions which are in contravention of law and is entitled to receive \$2.00 per day for each and every day of the school month, or the sum of \$40.00 per month. He may dismiss his school on holidays without forfeiture of pay, notwithstanding the clause in the contract. He may decline to perform the janitor services until the board makes a special contract with him for such services for compensation in addition to his salary of \$40.00 per month.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



**(To the State Board of Public Works.)**

## CANCELLATION OF CERTAIN LEASE OF CANAL LANDS.

May 4, 1906.

*State Board of Public Works of the State of Ohio, Columbus, Ohio.*

GENTLEMEN:—Acknowledging the receipt of yours of May 4th containing a copy of a lease made and entered into between the Board of Public Works and Thomas Brown under date of July 11, 1868, and your request for an opinion as to whether your board can cancel the lease, I beg to say that the lease in question does not contain any waiver of notice to be served upon Thomas Brown or his assigns, nor does it contain a waiver of the demand for the rent due as preliminary to the forfeiture of the lease.

The law governing such form of leases is that the exact rent due or exact balance in order to forfeit a lease for non-payment of rent must be demanded at a convenient time before the close of the day it is due and upon the premises included in the lease.

I am informed that Thomas Brown is dead, and if this lease has been assigned by him during his life time there is no notice given to you of the name of the assignee nor who the legal heirs of Thomas Brown are.

As the Supreme Court in the recent case of the State of Ohio ex rel. Attorney General v. The C. H. & D. Ry. Co., et al. has determined the title of the State of Ohio to certain parts of the premises in question and certain other parts thereof to be in the city of Dayton, and as the State of Ohio is in possession of its portion of said premises, under the judgment of said court, and as the Board of Public Works exceeded its authority in attempting to lease said premises for a term of 99 years, renewable forever, the lease cannot in any way affect the title thus vested in the State of Ohio, and it would seem to be useless to anticipate any right in any lessee of said lease until such right was asserted by any such lessee, I therefore would advise that no notice or demand be made and no attempted forfeiture be entered upon said lease as contemplated in your department letter of May 4.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## BIDS—CONFORMANCE TO SPECIFICATIONS.

Bid for construction of public works must conform to specifications.

June 23, 1906.

*The State Board of Public Works, Columbus, Ohio.*

GENTLEMEN:—You request my opinion on the following state of facts:

The State Board of Public Works has advertised for bids for the construction of two aqueducts on the Miami and Erie canal. All bidders were notified by the advertisement that particulars as to the plans and specifications of this work could be obtained from the chief engineer of public works at Columbus, Ohio, or from the canal engineer at Middleport, Ohio. All prospective bidders applying to the chief engineer at Columbus or the canal engineer at Middleport were furnished with printed instructions to bidders and specifications

which clearly showed that the trunk of the aqueducts were required to be constructed of wood. The provisions of the specifications are very clear on this point.

A bid has been submitted to the State Board of Public Works for the construction of aqueducts in accordance with the plans attached to said bid, which plans provide for an iron or steel trunk. You desire to know whether this bid can be considered.

The bid is not in accordance with the specifications fixed by the board in an important particular and cannot, therefore, be considered.

As stated by Shauck, J., in *Pease v. Ryan*, 7 O. C. C., page 50:

"It is familiar in the law governing contracts by public officers that proposals must respond to the advertisement by which they are invited, for otherwise there would be no competition."

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### BIDS — ACCEPTANCE OF — DISCRETION OF BOARD OF PUBLIC WORKS.

Bid received after advertised time for closing may not be accepted by board of public works; board has discretionary power to determine "lowest responsible bidder"; board has discretionary power to award contract in sections to different bidders.

July 20, 1906.

*State Board of Public Works, Columbus, Ohio.*

GENTLEMEN: — Referring to the inquiry contained in yours of the 17th inst. in reference to the letting of certain contracts for material and labor in the construction of certain locks on the Ohio canal in and near the city of Akron, I beg to say that I assume that in the advertisement and other requirements preparatory to the letting of contracts of this character you have complied with the provisions of Section (218-9) R. S. being the statute that governs your board in such matters. There is no limitation imposed by the statute upon your right to reject all bids and re-advertising if you find that some bids, otherwise acceptable, must be rejected on account of some technicality in the manner of submitting it; and further, if you have specified a certain hour of the day within which all bids must be received and the bid mentioned by you of the Atlas Portland Cement Co. was not submitted within the particular time mentioned in the advertisement it could not afterwards be received; but if your advertisement called for bids to be submitted July 12, 1906, as I assume from your letter, all parties would have the right to submit bids during that entire day, and the bid of the cement company, referred to, having been received at the office of the board at 1:10 P. M., July 12, it would be, under such circumstances proper to receive it and to consider it as a valid bid.

2. The question is further presented as to the power of your board to exercise a proper discretion in determining who is the lowest *responsible* bidder, or the "lowest and best" bidder, or whether the board is compelled to award the contract to that bidder who, in fact, is the lowest upon the entire job.

In answering this inquiry I cite you to the case of the State of Ohio ex rel Walton v. Hermann, et al, commissioners of the water works of the city of



Cincinnati (63 O. S. 440). In that case the relators filed a proposal to do the work specified for the sum of \$655,950, and the defendant W. J. Gawne Co. bid \$659,230. The petition in mandamus alleged that the commissioners of the water works rejected the lower bid and awarded the contract to the W. J. Gawne Company, which, it will be observed, was more than \$4,000 higher. The court in deciding the case said:

"A statute which confers upon a board of public officers authority to make a contract 'with the lowest and best bidder,' confers upon the board a discretion with respect to awarding the contract which cannot be controlled by mandamus."

This decision cites with approval the case of the State ex rei v. Commissioners (36 O. S. 326) as bearing upon the question. As to what constitutes proper discretion in awarding such contracts I refer you to the State of Ohio ex rel. v. the Village of St. Bernard, et al., reported in 10 C. C. (Ohio) 74. In this case the circuit court for the first circuit held:

"Where the trustees of the water works of a city, acting under the provisions of Sections 2415 and 2419 R. S. have taken proper and reasonable care to advise themselves whether one of the bidders for the pumping engines for the village could be depended upon to do the work bid for, with ability, promptitude and fidelity, and on the knowledge thus obtained, in good faith came to the conclusion that he was not, the court, even if satisfied that such opinion was incorrect, ought not to interfere with their subsequent action in awarding the contract to the next lowest bidder, if his bid was in proper form and complied with the advertisement for bids. The duty and discretion of deciding this question is imposed upon the board of trustees and not upon the courts."

As supporting the same view with regard to this board, I cite you to the case of Carmichael v. McCourt et al, 27 C. C. (Ohio) 775.

It will probably be unnecessary to cite other authorities than those from our own state courts, but the question has been presented in many other states, from which I quote the following:

"The determination of who is the lowest responsible bidder rests not in the exercise of an arbitrary, unlimited discretion of the officers or board awarding the contract but on the exercise of a bona fide judgment based upon facts tending reasonably to the support of such determination.

In the absence of fraud or gross abuse, the courts will not interfere with the exercise of discretion by administrative boards in their determination of who is the lowest responsible bidder."

Inge v. Board of Public Works of Mobile, 135 Ala. p. 187;  
State v. Richards, 50 Am. St. Rep. 489.

In the case of the People v. Kent, (160 Ill. 665) which was a proceeding to require the officers having the matter in charge to award a contract to one who claimed to be the lowest responsible bidder, the court said:

"It appears that the defendant, after investigating the records made by the relator in doing similar work before, and the other matters re-



ferred to in his answer, determined that the relator was not the lowest responsible bidder. He was vested with the exercise of official judgment and discretion with which, in the absence of fraud the courts have no right to interfere. To the same effect is the case of *Kelly v. City of Chicago*, etc. 62 Ill. 279.

"In Smith's modern law of municipal corporations, Section 746, this law is announced; where an officer in the letting of a contract to a bidder is vested with the exercise of official judgment and discretion, as where the contract is to be let to the lowest responsible bidder, the courts have no right, in the absence of fraud, to interfere with the exercise of that judgment and discretion. The officer's duty is not merely ministerial and cannot be controlled by mandamus."

To the same effect is the case of the *State ex rel v. McGrath*, 91 Mo. 386

The precedent announced by this department in the year 1899 in the case brought by The Laning Printing Co. against Charles Kinney and others, commissioners of public printing, would seem to be in point as defining the powers of this board. There The Laning Printing Company of Norwalk, Ohio, being actually the lowest bidder for certain public printing, was not awarded the contract by the commissioners, and it sought to compel the award of the contract by proceedings in mandamus. This department advised the commissioners that in construing the language used in Section 321, R. S., to wit: the "lowest responsible bidder," they could take into consideration the experience of the relator, in such work, the facilities which it had to perform the same within the statutory time, etc., etc., and that its discretion of such award, when honestly exercised, could not be controlled by mandamus.

In view of the foregoing authorities, you are permitted, in determining who is the "lowest and best bidder," to exercise honest discretion, taking into consideration every element which would affect your judgment as to the capability or responsibility of each bidder.

3. A paragraph in the specifications and notice to contractors, upon which all bids were predicated, is as follows:

"Contractors may bid on one or more sections making one price for each class of work on each separate section, and contractors must bid with the condition that they will accept, award and enter into contract to construct the work on such sections, whether one or more, as may be awarded to them by the board of public works, irrespective of the number of sections upon which the contractors may be the lowest bidder."

Under this provision you would be authorized to award to any contractor a portion or section of the work if your judgment is that a certain section or sections should be awarded to such contractor, and thus be enabled to divide the awards, to various contractors, provided it be found by you that upon such section or sections, the contractor to whom such award be made, be the lowest and best bidder on such portion thereof.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## APPROPRIATION — ANTICIPATION OF.

Board of public works may enter into contract providing for payments out of appropriation made, to be available in future.

July 26, 1906.

*Board of Public Works of the State of Ohio, Columbus, Ohio.*

GENTLEMEN: — The inquiry presented in yours of this date is as follows: Can an appropriation for the board of public works for the last three-fourths of the fiscal year ending November 15, 1907, and for the first quarter of the fiscal year ending February 15, 1908, as provided by the appropriation act passed April 2nd, 1906 (98 O. L. 372), be anticipated, by making contracts in reference thereto for the work contemplated by such appropriations, provided, that no payment of any portion of said contract be made until the appropriation is available as contemplated in such act? In other words, can a valid contract be entered into by the board, with reference thereto, if the contractor agrees to the delay in payment thereof until after the money is available under the appropriation?

Section 22 of Article II of the constitution of Ohio provides:

"No money *shall be drawn* from the treasury, except in pursuance of a specific appropriation made by law; and no appropriation shall be made for a longer period than two years."

In this instance a specific appropriation has been made (98 O. L. 372, 373) for maintenance and repairs, and for rebuilding certain portions of the public works of this state. The limitation contained in this section is not upon the power or authority of the board, or any other officer, in whom is vested the power to make a contract, to enter into a contract with reference to the appropriations lawfully made, but the limitation is upon the authority to draw any moneys from the treasury without a specific appropriation having been made.

This is not the creation of a debt as forbidden by Sections 1, 2 and 3 of Article VIII of the constitution, nor does the intended contract contemplate the creation of a liability beyond the amounts specified in the appropriation act. The judgment of the general assembly has thus been exercised and the expenditures of the certain sums named in the appropriation act has been authorized, all of which contemplates that the same can be applied to the payment of valid contracts made with reference thereto, and the question is, whether those contracts can now be made provided the contractor agrees to have the payments thereon deferred until the amounts specified in the act can be legally applied thereto.

In my opinion this may be done. This view is supported by the case of the State v. Medbery (7 O. S. 522) and that of the State of Ohio on the relation of Charles Parrott, et al, v. The Board of Public Works (36 O. S. 409, 412).

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## CANALS — ENFORCEMENT OF LAWS FOR PROTECTION OF.

Penalty for violation of Section (218-215) R. S. recoverable in civil action only; payment of judgment rendered in such civil action may not be enforced by imprisonment under Section (218-219) R. S.



October 6, 1906.

*Board of Public Works, Columbus, Ohio.*

GENTLEMEN:—In compliance with the request for an opinion as to whether a criminal prosecution or a civil action is the proper procedure under Section (218-215) R. S. I beg to advise you as follows: The statute referred to provides that each person who violates its provisions shall “forfeit and pay the sum of \$10.00 for each violation and moreover be liable for all expenses incurred by agents of the state,” etc.

The statute in question is part of an act passed June 17, 1879 (76 O. L. 185). This act contains in itself no express direction as to the manner in which the penalties imposed by its various sections should be collected, but it was entitled “An Act supplementary to ‘an act to provide for the protection of the canals of the state of Ohio, the regulation and navigation thereof,’ passed March 28, 1840.” The act of March 28, 1840, contained many provisions for penalties in language similar to that used in the latter act and both acts clearly define certain offenses as misdemeanors punishable by fine or imprisonment (Sections (218-77) and (218-218) R. S.) One section of the act of 1840 specifically provided that the penalty imposed should be sued for and recovered in an action of debt in the name of the State of Ohio before any justice of the peace in this state. (Section (218-91) R. S.)

The following sections now designated as (218-198) and (218-199) were also a part of the act of 1840:

Sec. (218-198). In all prosecutions and proceedings under this act, it shall be lawful for either party to appeal to the court of common pleas of the proper county, upon the same conditions and in the same manner as appeals are allowed by law in civil cases, cognizable by justices of the peace.

Sec. (218-199). Either of the acting members of the board of public works, resident engineers, superintendents, lock-tenders, or collectors, shall be authorized to commence suit against any person charged with the commission of any offense, or made liable under the provisions of this act, or the orders of the board, before any justice of the peace in any county in the state where the person so charged or made liable may be found, or in the county where the offense was committed; and if any person so charged or made liable shall, when before the justice for trial, ask for an adjournment of the trial, or a continuance of the case, and the justice shall deem it expedient to grant such adjournment or continuance, it shall thereupon be his duty to reduce to writing the testimony of each witness in attendance, on the part of the state, and to cause the same to be subscribed and sworn to; the defendant shall have a right to cross-examine witnesses, and the depositions so taken shall be competent evidence on the trial of the case, before said justice; and should the case be appealed, they shall be competent evidence upon the trial in the appellant court.

The language of these sections “prosecutions and proceedings” “charged with the commission of an offense or made liable” indicates that both civil and criminal proceedings were contemplated by the framers of the act. *White v. State* (14 Ohio, 469) was an early case arising out of a violation of Section 5 of the act of 1840. (Section (218-70) R. S.) which provided that the offender should “forfeit and pay for every such offense the sum of \$5.00.” The statement of facts shows that the defendant was “arrested upon a complaint, tried, convicted and fined” before a justice of the peace; on appeal to the common pleas court



a declaration in debt upon the statute was filed and judgment rendered for \$5.00 and costs. This is the only case I have found in this state in which a criminal prosecution was brought under a statute merely imposing a penalty and not defining the offense as a misdemeanor nor directing the mode of collecting the penalty. In such cases the general rule is that the penalty should be collected by a civil suit.

16 Enc. of Plead. & Pract. 284, 235, 238;  
Stockwell v. U. S. 13 Wall. 531.

There is no doubt that a civil action is a proper means for recovery of the penalty imposed by Section (218-215) R. S. The statute referred to in the case of Rockwell v. State, (11 Ohio, 131), provided that "the offender shall forfeit and pay a fine of not less than \$5.00 nor more than \$50.00" but the court held "debt is the proper remedy and it is within the knowledge of the court that debt has been frequently brought in analogous cases and it is given by express provision in some other cases precisely similar." (See also Smith v. State, 18 O. 89; Markle v. Akron, 14 Ohio, 586).

It is to be presumed that the legislature intended some distinction between offenses for which it directs that the offender is merely to "forfeit and pay" a certain amount and other offenses which it clearly defines as misdemeanors punishable by fine, but if persons subject to the penalty may be arrested and fined as for criminal offenses every material distinction between the two classes of offenses is obliterated. I am therefore of the opinion that the only proper procedure for the collection of the penalty imposed by Section (218-215) R. S. is by civil suit before a justice of the peace. A bill of particulars should be filed setting forth all the facts necessary to show a violation of the statute and asking judgment for the amount of the penalty and the amount of expenses, if any incurred by the agents of the state in removing encroachments. The action should be brought in the name of the state on the relation of one of the officials designated by Section (218-199.) The case may be tried by a justice if a jury is not demanded. Either party may appeal to the common pleas court.

You also ask whether the defendant against whom judgment has been rendered for a penalty in a civil action may be imprisoned under authority of Section (218-219), which reads as follows:

"In addition to the penalties already prescribed for violations of the provisions of this act, and the act to which this is supplementary, the court before whom any case for such violation is tried, shall have power to sentence the party or parties convicted to be confined in the jail of the proper county until the fines and costs are paid or secured."

The words "parties convicted" defining the persons subject to the terms of the statute and the words "until the fines and costs are paid" defining the period of imprisonment, are properly applicable to criminal prosecutions alone. The authority to imprison conferred by this statute is, therefore, in my judgment limited to cases where a fine has been imposed after criminal prosecution and cannot be exercised to enforce payment of a judgment for a penalty rendered in a civil action.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## CANAL LANDS — TITLE TO.

Title of state to certain islands appropriated for canal reservoir purposes, as against adverse claimants under patentees of United States.

September 22, 1906.

HON. GEORGE H. WATKINS, *President Board of Public Works, Columbus, Ohio.*

DEAR SIR:— Your letter of September 8th requests my opinion as to the title of the state to certain lands therein described. Your statement of the facts upon which the state's title to these lands depends is substantially as follows:

Between the years 1828 and 1832, the State of Ohio, through its duly authorized agents, constructed what was known for many years as the Licking Reservoir, now Buckeye Lake. In constructing this reservoir the canal commissioners and their engineers, acting under the provisions of the act of the General Assembly passed February 4th, 1825, entered upon and constructed the necessary embankments needed to impound the waters required to supply the Ohio Canal, both north and south of the Licking summit. There were, however, a number of tracts of land, the title to which was in the United States at the time of such occupation. The land particularly described in your letter, and taken as representative of the class of lands about which disputes as to titles have arisen, was such a tract. It contains 35.06 acres including an island, and was patented February 22nd, 1850, by the United States to the individual through whom title adverse to the state is now claimed. The entire tract with the exception of about seven acres was covered by the waters of the reservoir at the time the patent was issued.

The first two questions, based upon the facts as outlined above, are as follows:

"1. Did the state appropriate or acquire the fee to the land below the wastewear (high water) line of the reservoir, including islands, by reason of the construction and flooding of the reservoir, as a part of the public water works of the state, patents to such lands having been issued by the United States to individuals after such appropriation, but prior to the adoption of the constitution of 1851?

"2. If so, did it appropriate a minimum berme embankment, whether natural or artificial, adjacent to the top water line of said reservoir?"

The facts assumed as the basis of the above question are in every material particular, identical with the facts before the court in the recent case of *State v. Stoker*, 72 O. S., 638, unreported. The supreme court in that case decided that the state had acquired title in fee simple to the lands which were the subject of the action. On the authority of this case I have no hesitation in answering in the affirmative so much of your first two questions as relates to lands permanently submerged or constituting a part of the berme embankment. See also: *Hatch v. Railway Co.*, 18 O. S., 92 *Smith v. State*, 59 O. S., 278-284.

If at the time of the construction of the reservoir it was reasonably necessary for the state to own the islands within the reservoir for canal or reservoir purposes, the title to such islands also vested in the state. The flooding of the surrounding lands, shutting off access to the islands, operated, in my opinion, as a sufficient occupation under the act of February 4th, 1825.

The rule as to what constitutes occupation by the state, is stated in *Miller v. Wisenberger*, 61 O. S. 584, as follows:



"If the entry, use and possession by the state were open and notorious so as to inform the land owner that his land had been taken by the state for canal purposes, a fee vested in the state. But if the entry, possession or use was merely incidental, constructive or indirect, and not of such character as to apprise the canal commissioners that they were making the state liable, nor the land owner that his lands were so appropriated as to give him a claim against the state for taking and using the same for canal purposes, no title or fee vested in the state."

Both the agents of the state and the land owners must have considered the land included within the limits of the banks of the reservoir, and entirely surrounded by lands and waters of the state, as having been appropriated by the state. Assuming that a particular island was not necessary for canal purposes, yet it was necessary for canal purposes to flood the surrounding land, and by such flooding to appropriate the island. Such appropriation was for canal purposes, although the island itself was not used as a part of the canal system.

But was it not in fact reasonably necessary for the state to acquire title to all lands within the limits of the reservoir? The future enlargement of the canals might make it necessary to raise the waters of the reservoir, and it was therefore proper to appropriate all lands within the reservoir, whether submerged or not, in order to avoid the necessity of future appropriations of small pieces of land which were almost of no value at the time of the original appropriation.

You also ask:

"3. Did the state appropriate or acquire the fee to lands thus flooded, including islands, below the wastewear line of the reservoir, where the land was patented by the United States after the adoption of the present constitution of Ohio?

"4. If so, did it appropriate a minimum berme embankment, whether natural or artificial, adjacent to the wastewear (high water) line of said reservoir, when the lands were thus patented?"

The chief contention on the part of the state in the case of *State v. Stoker*, *supra*, was that the state had obtained title from the federal government to the government land occupied for canal purposes, the intention of the federal government to confer title and the intention of the state to accept it, being evidenced by legislation. If the *Stoker* case was decided upon that ground, it is immaterial whether patents subsequent in date to the acquisition of title by the state, were issued before or after the adoption of the present constitution. In either case, title having previously passed from the United States to the State of Ohio, the issuance of the patent was a nullity.

*Webster v. Clear*, 49 O. S., 392-400;

*Doolan v. Carr*, 125 U. S., 618;

*Van Wyck v. Knevals*, 106 U. S., 360.

The contention of the state in the *Stoker* case is supported by the opinion of the Supreme Court of the United States in the case of *Werling v. Ingersoll*, 181 U. S., 131-141.

"The congressional act of 1827, nevertheless, implies by its language and subject-matter the consent of Congress to a right of way through the public lands, and the subsequent state act of 1829, in the eleventh section, showed the width of the canal contemplated, which was the same as the prior and repealed act of 1825 provides for. Of course, a towpath



would be added. These two facts show the intention of the parties to proceed thereafter with reference to the act of 1827 and not under that of 1822. Work was not in fact commenced until 1837.

"When Congress under the act of 1827 granted the alternate sections to the state throughout the whole length of the public domain, in aid of the construction of the canal, it also granted by a plain implication the right of way through the reserved sections, for it cannot be presumed the government was granting all these alternate sections to the state for the purpose avowed, and yet meant to withhold the right to pass through the sections reserved to the United States along the route of the proposed canal. But the implication would not extend to the ninety feet on each side. It would extend to the land necessary to be used for the canal of the width contemplated, and that had been asserted in an act of the General Assembly in 1825 and was subsequently reiterated in another act of that body (1829)."

The act of 1827 referred to in the above opinion is one granting land for canal purposes to the state of Indiana. This act is not only practically contemporaneous with the act granting lands to the State of Ohio for canal purposes, but its language is almost word for word that used in the first three sections of the latter act. The Ohio act in addition to granting alternate sections along the route of the Miami and Erie Canal, contained an additional grant of 500,000 acres of government land to be selected by the governor. The inference that Congress intended that the state should have title to lands actually appropriated for canal purposes is therefore stronger from the terms of the Ohio act than from the terms of the act referred to in the above quotation.

If, however, the Stoker case was decided upon the theory that title passed from the *patentee* to the state by virtue of occupation by the state under the act of 1825, the question of the date when the patent was issued becomes material.

The act of 1825, which provides in substance that the canal commissioners might enter upon and take possession of any lands and waters necessary for the prosecution of the improvements intended by the act, and that all applications for compensation for lands, etc., so appropriated, must be made within one year, are, in my opinion, inconsistent with Article I, Section 19 of the Constitution of 1851.

Levee Commissioners v. Dancy, 65 Miss., 335.

But even if title to lands obtained after 1851 was not acquired by the state under the act of 1825, it will probably be found that in most instances the state has acquired title by adverse possession. The Constitution of 1851 does not deny to the state the right which every individual possesses, to acquire title by adverse possession.

Lewis on Eminent Domain, Sec. 665*b*;

Eldridge v. Binghampton, 120 N. Y. 309, 24 N. E. 462;

Baxter v. State, 10 Wis., 454;

Rhode Island v. Mass., 4 How. U. S., 591;

Levee Commissioners v. Dancy, 65 Miss., 335.

The fact that some of the lands in question are now held by tax titles is immaterial. A tax sale of lands belonging to the state is void. State v. Griftner, 61 O. S., 201.

I am, therefore, of the opinion that the state has title to all the lands referred to in your letter.

Very truly yours,

WADE H. ELLIS,

Attorney General.

(To the Superintendent of Insurance.)

PHYSICIAN'S LIABILITY POLICY MAY NOT BE WRITTEN IN OHIO.

Writing physician's liability policy amounts to transaction of professional business within the meaning of Section 3235 R. S., and foreign insurance company may not be admitted to write such contract within state of Ohio.

January 22, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—I have given consideration to the inquiry contained in yours of the 15th inst., regarding the right of the Fidelity and Casualty Co. of New York to do the business set out in the letter of their counsel and to write the form of contract submitted with such letter, within this state.

The form of physician's liability policy as defined by the supreme court of this state in the case of *State of Ohio ex rel. The Physicians' Defense Co. v. Laylin*, Secretary of State, comes within the prohibition contained in Section 3235 R. S., providing that a corporation cannot be created for the purpose of carrying on professional business.

The counsel for the company in his communication to you urges that the business engaged in by that company is writing a form of insurance provided for by Section 3641. In answer to this contention I beg to say that without being compelled to definitely decide whether that section includes insurance of this character, yet if it be an insurance contract it is nevertheless an attempt to do within this state that which has been denied to domestic corporations. The supreme court in the above cited case decided November 28th, 1905, Syl. 2, says:

"But a foreign corporation created for the purpose of engaging in and carrying on such business, is not entitled to have or receive from the Secretary of State of the State of Ohio, a certificate authorizing it to transact such business in this state, for the reason that the business proposed is professional business, and as such is expressly prohibited to corporations under Section 3235 of the Revised Statutes of Ohio."

I think the paragraph of the syllabus of the learned court above quoted amounts to a prohibition upon the right of the Fidelity and Casualty Company of New York to write the form of contract which you have submitted with your letter. I therefore return to you the communication addressed to you by Charles C. Nadal, counsel for the company, together with the form of policy issued by such company.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

PHYSICIAN'S LIABILITY POLICY MAY NOT BE WRITTEN IN OHIO.

Contract of insurance against loss for damages in consequence of error or mistake of assured in the practice of medical profession is not a contract of indemnity insurance against damage for accident to other persons, such as is authorized by Section 3641 R. S.; such contract may not be written in Ohio by foreign insurance company; opinion of January 22nd reaffirmed.



February 2, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:— Acknowledging the receipt of your letter of the 30th ult., enclosing a further communication from Charles C. Nadal, counsel for The Fidelity and Casualty Company relative to the physician's liability policy proposed to be issued by said company, I beg to say in answer thereto that I do not deem it necessary to further explain the position of this department with regard to the form of policy in question proposed to be issued by this company other than to say that the opinion heretofore expressed classes the policy as among those prohibited by the opinion expressed by the supreme court in the case of the State of Ohio ex rel. The Physicians' Defense Co. v. Laylin, Secretary of State (73 O. S. p.—, decided November 28th, 1905).

I have given consideration to all that Mr. Nadal has said in his letter and it is probably due to him, through your department, that I should answer the same. In my former letter I mooted the question as to whether Section 3641 R. S. included insurance of this character, not expressing any opinion thereon because in my view of the application of the decision in the above entitled case to the question at issue, the contention of the counsel for The Fidelity and Casualty Company was resolved against the company on the ground that the business sought to be carried on under such form of policy was "a professional business." His letter of the 29th inst. addressed to you and by you transmitted to this department, criticises the suggestion that this form of insurance is not authorized by Section 3641 R. S. because, as he suggests, he "never urged anything of the kind." The suggestion was made irrespective of whether it was in response to any inquiry from him, as necessarily arising in the determination of the question as to whether such form of contract can be authorized within this state because the statute governing such companies has not provided therefor. I assumed that the power to do any form of insurance business within this state had to be authorized by the statutes of the state in view of the prohibition contained in Section 289 of the Revised Statutes, which is as follows:

"It is unlawful for any company, corporation or association, whether organized in this state or elsewhere either directly or indirectly to engage in the business of insurance or to enter into any contracts substantially amounting to insurance or in any manner to aid therein in this state, or to engage in the business of *guaranteeing against liability, loss or damage*, unless the same is expressly authorized by the statutes of this state, and such statutes and all laws regulating the same and applicable thereto have been complied with."

In view of this it became necessary, in my opinion, to inquire whether Section 3641 R. S. or any other section of the Revised Statutes of Ohio conferred upon either domestic or foreign companies the right to enter into any contract of the form submitted to you by this department as having been proposed by The Fidelity and Casualty Company.

When it is conceded by the counsel for that company that the contract in question is a contract of insurance we are not left to conjecture as to what section of the statutes governing insurance within this state is made the basis of the authority for entering into this form of contract. It is claimed to be by virtue of the following language employed in Section 3641 R. S.:

"A company may be organized or admitted under this Chapter to  
\* \* \* make insurance to indemnify employers against loss or damage



for personal injury or death resulting from accidents to employes or persons other than employes, and to indemnify persons and corporations other than employers against loss or damage for personal injury or death resulting from accidents to other persons or corporations."

It is probably under the latter clause of the above quoted section that the authority is inferred and that the character of the policy is one

"to indemnify persons and corporations other than employers against loss or damage or personal injury or death resulting from accidents to other persons or corporations."

The reasoning of the learned court in the State of Ohio *ex rel. The Physicians' Defense Co. v. Laylin, Secretary of State*, is cited by the counsel for the company as authorizing this form of contract to be made and entered into within this state in that the contract is distinguished from the one under consideration by the court in that case, in this, that it is claimed to be "a contract of indemnity." It might be admitted that the contract in question is one of indemnity and still not be an answer to the suggestion that it must be such a character of indemnity insurance as is authorized to be done within this state, and if not "expressly authorized" as provided by Section 289, *supra*, then it follows that the authority cannot emanate from your department nor from that of the Secretary of State to do that which, although not expressly prohibited is, nevertheless, not authorized. As to whether the same is authorized depends upon the construction to be given the language quoted from Section 3641 R. S., and also from a consideration of the character, terms and provisions of the contract that the company thus seeks to issue and sell.

Leaving for a moment the consideration of the question as to this being a professional business thus sought to be done we quote from the policy itself the language employed therein as to the character of the contract the company offers:

"The Fidelity and Casualty Company in consideration of the premium \* \* \* does not insure the person described \* \* \* against loss from common law or statutory liability for damages on account of bodily injuries fatal or non-fatal, suffered by any person or persons in consequence of any alleged error or mistake made within the period of this policy by the assured in the *practice of his profession as described in the schedule*.

"If \* \* \* any suit is brought against the assured to enforce a claim for damages covered by this policy the assured shall immediately forward to the home office of the company every summons or other process as soon as the same shall have been served on him, and the company will, at its own cost, defend against any such proceeding in the name and on behalf of the assured unless it shall elect to pay to the assured the indemnity provided for \* \* \*

"The assured shall not settle any claim except at his own cost, nor incur any expense, nor interfere in any negotiation for settlement or in any legal proceedings, without the consent of the company, previously given in writing \* \* \*"

The above is all that is material, for the purpose of this question, to quote from the policy before me. This, it will be claimed, brings the contract within the language quoted from Section 3641, viz: insurance "against loss or damage for personal injury or death resulting from accidents to other persons."

The policy insures the party against:

"loss from common law or statutory liability for damages on account of bodily injuries fatal or non-fatal, suffered by any person or persons in consequence of any alleged error or mistake made \* \* \* by the assured in the practice of his profession."

There is, in my opinion, a very wide distinction between "*loss or damage* for personal injury or death resulting from accidents" and that provided for in the policy, which is, "loss for damages in consequence of any alleged error or mistake." To hold that the words employed in this policy of "error or mistake" are equivalent to "accident" is destructive or subversive of the definition usually employed in connection with such terms. "Error or mistake" is equivalent to malpractice or professional ignorance, but the statute in question does not provide for insurance against error or mistake but only against loss or damage resulting from accidents and, in my opinion, there being no express authority to do or engage in the character of business thus sought to be done and to write the form of contract provided for herein, this form of insurance is not authorized within the State of Ohio.

I am led to this conclusion by the adjudicated cases and definitions as given by standard authorities of the terms here under consideration. The Century Dictionary in defining the word "accident" uses the following language:

"In legal use an accident is an event happening without the concurrence of the will of the person by whose agency it was caused; *it differs from a mistake* in that the latter always supposes the operation of the will of the agent in producing the event, although that will is caused by erroneous impressions on the mind."

"Specifically in equity practice an event which is *not* the result of personal negligence or misconduct."

In Bouvier's Law Dictionary "accident" is defined:

"The happening of an event without the concurrence of the will of the person by whose agency it was caused; or the happening of the event without any human agency."

In Anderson's Law Dictionary the following definitions of "accident" are given with citations of authority:

"An event or occurrence which happens unexpectedly from uncontrollable operations of nature alone and without human agency; or an event resulting undesignedly and unexpectedly from human agency alone, or from the joint operation of both. An event from an unknown cause or an unusual or unexpected event from a known cause."

These definitions are sufficient to widely distinguish "accidents" as included in Section 3641 R. S. from "errors and mistakes" occurring "in the practice of a profession" as included in the form of policy of this company.

This does not involve the question of the construction of a contract or policy between a promisor and promisee, or between the insured and the insurer, for in such cases a different rule of construction prevails, but it presents a question of statutory power to do or engage in a certain line of insurance business where the state's officers deny the existence of the power. In such a case the power must be "expressly authorized" (Section 289 R. S.).



As applicable to this, Lewis' Sutherland on Statutory Construction says, p. 700 :

"We are not at liberty to imagine an intent and bind the letter of the act to that intent; much less can we indulge in the license of striking out and inserting, and remodeling, with a view of making the letter express an intent which the statute in its native form does not evidence. Every construction, therefore, is vicious which requires great changes in the letter of the statute, and, of the several constructions, that is to be preferred which introduces the most general and uniform remedy."

The same word "accidents" is employed in a former clause above quoted on page 3, as in the latter clause being construed. The word "accidents" in each clause should receive the same construction. In paragraph 2 of Section 3641 R. S. the word "accidents" is employed four times and it should receive the same construction throughout the entire paragraph.

"A word repeatedly used in a statute will bear the same meaning throughout the statute, unless a different intention appears."

Rhodes v. Weldy, 46 O. S., 234.

The word "accident" has received the construction contended for here as employed in the other portions of the paragraph under consideration and to distinguish it and give it a different meaning in the portion of the statute providing for this character of indemnity insurance without an intention appearing upon the face of the statute so to do would be violative of this canon of construction and should not be adopted. All parts of the statute are in *pari materia* and are to be construed together. They form a part of the same statute and are co-related, (Cincinnati v. Conner, 55 O. S. 82; Cincinnati v. Guckenberger, 60 O. S. 353) so that I contend we should give to the term "accidents" the same meaning throughout the same statute. This is more apparent when we see that the evident reason for the introduction of the second clause (p. 3) as distinguished from the first was that the first clause limited the contract or policy so as to indemnify employers only, the second clause enlarged the power to contract with regard to persons "other than employers" but did not thereby change the kind of contract, viz: a contract to indemnify "against loss or damage resulting from accidents."

That which is aimed at in the policy to provide against is the malpractice of the physician or surgeon. His "errors and mistakes" constitute malpractice. The basis of a claim for damages against a physician for malpractice is the failure to exercise the average degree of skill, care and diligence in the particular case of accidents, and arises from his contract of employment.

Gillett v. Tucker, 67 O. S. 106.

Fundamentally "mistakes and errors" in the practice of the profession of medicine cannot be considered as "accidents." In this view of the question I am brought into opposition to the opinion of Attorney General Knowlton of Massachusetts in construing a statute of the State of Massachusetts known as the act of 1894, Chap. 522, Section 6, Paragraph 5 thereof. That statute is not identical with the one under consideration but the reasoning adopted by the attorney general is not satisfactory to me as an authority in construing our own statute. I have carefully considered his opinion and opinion of the Insurance Commissioner of the State of Minnesota, and I do not deem them of controlling effect on this question. I therefore give it as my opinion that Section 3641 of the Revised Statutes of Ohio does not authorize a physician's liability policy, of the character submitted to your department, to be written within this state.



I am further of the opinion as expressed in my previous letter to you that the business thus sought to be engaged in by this company is a professional business and forbidden by Section 3235 of the Revised Statutes of Ohio.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### BONDS — VALIDITY OF, ISSUED IN PURSUANCE OF SPECIAL ACT.

Bonds issued pursuant to act in 90 O. L. 322, a special act similar to acts recently declared unconstitutional, authorizing creation of indebtedness for erection of court house may be regarded as valid.

March 5, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR: — Acknowledging the receipt of yours of the 24th ult. presenting the inquiry as to the validity of the bonds issued pursuant to the act found in 90 O. L. p. 322, I beg to say that while the act in question is, *in form*, such as may not have been sanctioned by any of the more recent utterances of the Supreme Court of this state, and is obnoxious to the later rulings of that court condemnatory of special legislation, yet similar acts of the General Assembly have been abundantly sustained prior to the enactment of such law, and such decisions may have induced the passage of the law under consideration.

The mere fact that *the form* of such laws has been condemned does not conclude the inquiry, unless we are also compelled to decide that the *subject matter* thereof is *ultra vires*. This we do not concede. On the contrary the erection and equipment of county buildings is, by general laws, made the duty of the county commissioners, who are by general laws, authorized and directed to levy a tax for such purposes and in anticipation of the payment thereof to issue and sell the bonds of the county.

It would therefore seem to be sufficient to say that the powers sought to be exercised in the issuance and disposition of county bonds for the purpose of furnishing the funds wherewith to erect, equip and furnish a court-house, is plainly within the constitutional powers of the county authorities; and because such power has been executed in a different manner than that provided for by general law, the bonds issued pursuant thereto should not be condemned, especially since the county has used the proceeds thereof in the erection and equipment of such building, and for the further reason that no court has ever questioned the constitutionality of the particular act under which such power was exercised.

I herewith return to you the file which you transmitted to me.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### FRATERNAL BENEFICIARY ASSOCIATIONS — RENEWAL OF LICENSE, AFTER SURRENDER OF CHARTER FROM ANOTHER STATE AND REINCORPORATION.

Benefit of provision of Section (3631-27) Revised Statutes, exempting fraternal beneficiary associations doing business in Ohio at the date of passage of the act of April 26, 1904, from the provisions of said act, is lost by surrender of corporate

charter of foreign association and reincorporation in another state; such association not entitled to renewal of license.

April 4th, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—The questions presented in yours of the 31st ult. invite an examination of the fraternal beneficiary association law of this state, passed and approved April 26th, 1904 (97 O. L. 421, 433, R. S. (3631-11) et seq.)

The first of the series of questions refers to the rights of the Woodmen of the World, a fraternal organization, and inquires if it would be entitled to a renewal of its license to do business in Ohio should it surrender its present charter granted by the State of Nebraska and reincorporate in another state?

I assume that the scope of the question is meant to include the further inquiry, whether it is to be treated, after reincorporation, as a new corporation making its initial application for authority to do business herein, and subject to the laws as they now exist, or should it be treated after reincorporation as having been admitted to Ohio as a corporation of Nebraska, pursuant to the laws of this state as they existed at the time of its admission and qualification to do business herein, and without the necessity of further authority to do business in Ohio as a foreign corporation.

Section 16 of the fraternal beneficiary act above referred to is as follows:

“Associations which are now authorized to transact business in this state may continue such business until the first day of April next succeeding the passage of this act, and the authority of such association may thereafter be renewed annually, but in all cases to terminate on the first day of April,” etc., etc.

Section 17 of the same act is in part as follows:

“No foreign association now transacting business, organized prior to the passage of this act, *which is not now authorized to transact business in this state*, shall transact any business therein without a license from the superintendent of insurance. Any such association shall be entitled to a license to transact business within this state upon filing with the superintendent of insurance a duly certified copy of its charter or articles of association; a copy of its constitution or laws, certified by its secretary or corresponding officer, a power of attorney to the superintendent as hereinafter provided; a statement under oath of its president and secretary or corresponding officer, in the form required by the superintendent, duly verified by an examination made by the supervising insurance official *of its home state* of its business for the preceding year; a certificate from the proper official in its home state, province or country that the association is legally organized; etc. \* \* \*

“Nothing contained in this act shall in any manner be so construed as to require any such foreign association, not now authorized to transact business in this state, to conform its rates of assessment to those prescribed by the national fraternal congress mortality table as a condition precedent to the securing of such license or any renewal thereof.

“Any foreign association hereafter organized, desiring admission to this state shall in addition to the foregoing requirements of this section show that it collects from all its members for death benefits, assessments not lower than those required by the national fraternal congress mortality table, with interest at 4%, and shall have the further qualifications required of domestic associations organized under this act and



have its assets invested as required by the laws of the state, territory, district, county or province where it is organized. \* \* \*

"Provided, however, that nothing contained in this or the preceding section shall be taken or considered as preventing any such association from continuing in good faith all contracts made in this state during the time such association was legally authorized to transact business therein."

The question involves the consideration of these paragraphs from the laws of Ohio, and further, the changes effected in the organization by its reincorporation under the laws of a state other than that issuing its present charter.

The quotations from the Ohio laws above cited do not in any respect abridge the right of comity existing toward other states in the admission of the corporations of those states to do business herein save that they require certain different and other requisites to be observed by such corporations organized under the laws of other states, than were required of such corporations prior to the enactment of the fraternal beneficiary law referred to.

The privileges contained in Section 16 above cited are limited to associations "which are now authorized to transact business in this state." The time therein referred to would be the time of the enactment of that law, to-wit, April 26th, 1904.

Section 17 of the foregoing act applies to foreign associations and provides that such association "which is not now authorized to transact business in this state, shall transact any business therein without a license from the superintendent of insurance," and the further provision that certain requirements are exacted of foreign associations "*hereafter organized*" emphasizes the distinction between corporations authorized to do business at the time of the enactment of the law in question and those which might thereafter be organized.

When the Woodmen of the World surrenders the charter granted to it by the legislature of the State of Nebraska and incorporates under the laws of another state it cannot be said to be the same corporation for its existence under the charter of the State of Nebraska has ended and it has been created as a new corporation under the laws of some other state. Its situs is changed, and it is the subject of a different jurisdiction and to the laws of a different commonwealth. It becomes in law a new creature as essentially different from what it was under its former charter as is the existence of two separate natural persons. Therefore if such corporation after the surrender of the Nebraska charter and the incorporation under the laws of some other state should apply to the State of Ohio for admission to do business herein, it must come shorn of its past privileges conferred upon it by the laws of Ohio at the time of its admission thereto, and obtain its right to enter the State of Ohio and to do business herein under the laws as they exist and subject to all other limitations at the time of such admission. It would follow that it, the new corporation, would not be entitled to a "renewal of its license to do business in Ohio," because it would not be "continuing business" as an association "authorized to transact business in this state," as prescribed in Sections 16 and 17 of the act in question.

The second question presented needs no further answer than to again say that should the corporation seek to do business in Ohio as a new corporation it will be required to show, in addition to the requirements otherwise set forth, that "it collects from all of its members for death benefits, assessments not lower than those required by the national fraternal congress mortality table, and performs the other conditions required of such foreign corporations."

The further questions presented can be solved upon the principles herein announced.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## PUBLICATION OF CERTIFICATE OF SUPERINTENDENT OF INSURANCE.

Section 4955, R. S., does not affect requirement as to publication by insurance company of certificate of superintendent of insurance under Section 284, R. S.

April 25th, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—I am in receipt of yours of April 23rd requesting my opinion upon the application of the provisions of Section 4955 of the Revised Statutes, to the publication required by Section 284.

Section 4955 would, standing by itself, seem to relate to the publication of all notices provided by statute. It appears, however, that this section was never a part of the law of this state until the codification of 1878, at which time it was enacted as a part of the act entitled "An Act to revise and consolidate the laws relating to civil procedure," etc. At the time this section was enacted it seems to me that its purpose was clearly expressed by the context and by the title of the consolidated act of which it was a part, and that it related exclusively to such publications as were provided for by the code of procedure. If this is true the subsequent enactment of Section 284 cannot give it a more comprehensive meaning.

Ebersole v. Schiller, 50 O. S. 701.

I am of the opinion, therefore, that Section 4955 has no application to such publications as are required by Section 284.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## LEGAL RESERVE COMPANY—WHETHER COMPANY HAVING ASSESSMENT POLICIES OUTSTANDING MAY BE ADMITTED AS.

Insurance company (Minnesota Mutual Life) having a few outstanding assessment policies, the writing of which has been discontinued, may be admitted to do business in Ohio as a legal reserve company.

May 23rd, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—I am in receipt of the application of the Minnesota Mutual Life Insurance Company filed with you for a license to transact business in this state, together with the accompanying briefs of the counsel for the company. You desire an opinion from this department as to whether such company has the right to receive a license from your department to do a legal reserve business when its statement shows that it has a certain number of assessment policies outstanding on risks outside of the State of Ohio.

If this company has outstanding, as stated in the documents submitted to me, but 138 policies representing insurance to the amount of \$276,000, this should not be considered as sufficient to characterize it as an assessment company nor as one engaged in the business of insurance on the assessment plan; and if this company should comply with the requirements of the laws of Ohio and the rules of your department, it should not be excluded from doing business in Ohio as a legal

reserve company because carrying the number of assessment policies referred to and which character of business it has discontinued since 1901.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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WRITING POLICIES BY MAIL UPON INSURANCE WITHIN OHIO NOT  
"DOING BUSINESS" IN OHIO.

Insurance company receiving applications by mail outside state and issuing policies outside state upon insurance within state need not secure license to do business in Ohio.

July 9, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—In answer to your inquiry in re the application of a foreign insurance company for license to do business in the State of Ohio, I beg to say that in my opinion the amended Section 2745c of the Revised Statutes, as amended in 98 O. L. 242, does not apply to any company receiving applications mailed in Ohio to a point outside the state and issuing policies outside the state upon such applications though the insurance is within the State of Ohio.

I do not attempt by this to pass upon any instance where any agent for a money consideration or otherwise acts as an inspector of property within this state.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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PERSONAL LIABILITY OF DIRECTORS AND OFFICERS OF INSURANCE  
COMPANY FOR FRAUDULENTLY PROCURING CERTIFICATE OF  
SUPERINTENDENT OF INSURANCE.

Directors and officers of mutual fire insurance company procuring certificate of superintendent of insurance upon false representation that cash premiums aggregating ten thousand dollars have been paid personally liable to creditors.

September 17th, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—It appears from your inquiry that the Home Mutual Fire Insurance Company was organized as a mutual fire insurance company under Section 3634 of the Revised Statutes of Ohio. This section provides *inter alia*, that such company shall not issue policies of insurance until it has procured the certificate of the superintendent of insurance and that such certificate shall not be issued until cash premiums have been paid aggregating not less than \$10,000 in cash. If the superintendent of insurance has been induced to issue such certificate upon the representation that \$10,000 in cash has been received when, in fact, only \$6,000 has been received, it is my opinion that the directors and officers making such false representations are liable to loss claimants or other creditors for the difference between the amount actually received and the \$10,000 required by law.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## FRATERNAL BENEFICIARY ASSOCIATION — INVESTMENT BY.

Power of American Insurance Union, a fraternal beneficiary association, to enter into certain contract of investment in real estate.

September 19th, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:— You have referred to this office a certain contract and lease executed by and between The American Insurance Union and Mr. Lincoln Fritter, dated March 13th, 1905, and you inquire whether the investment therein evidenced is within the powers of this association.

The American Insurance Union is a fraternal beneficiary association and its powers are controlled by the act of April 26th, 1904, (97 O. L. 421). Section 10 of this act, (3631-20) R. S., provides that in investing its funds a fraternal beneficiary association shall be governed by paragraphs 1, 2 and 3 of Section 3598 and Sections 3599 and 3600 of the Revised Statutes of Ohio. These sections and parts of sections authorize investments of three kinds, viz:

First, in certain classes of public bonds;

Second, in mortgages upon real estate or upon the pledge of such mortgages; and

Third, in real estate for its own accommodation in the transaction of its business, or which may have been conveyed to it in satisfaction of debts due the association.

I have carefully examined the whole transaction between The American Insurance Union and Mr. Lincoln Fritter, evidenced by all the instruments of writing submitted. The sum and substance of the contract between the parties and the legal effect thereof are about as follows:

Fritter owns a perpetual leasehold upon certain property in West Broad Street, Columbus. The A. I. U. agrees to advance the money to Fritter to erect a building on a portion of said premises, and to occupy a certain part of the building when completed, for which it is to pay rent to Fritter. The entire management and control of the property is in Fritter. He collects all the rents and out of these rents, after paying all fixed charges and expenses, such as taxes, insurance, assessments, repairs, etc., he is to pay the A. I. U. 5 per cent. per annum upon the money it advances and provide a sinking fund of 4 per cent. per annum on such money advanced. At the end of twenty-five years it is expected that the sinking fund will have paid the entire cost of the building to the A. I. U., the arrangement between the parties will be terminated and the property will belong to Fritter unencumbered by any obligation, expressed or implied, to the association.

For the purpose of this inquiry it is unnecessary to consider the transaction in minute detail, nor those provisions which contemplate a sharing of the rents and profits between the contracting parties in the event that they exceed a certain fixed sum. The whole arrangement is simply a loan from the American Insurance Union to Mr. Fritter. The total amount so far advanced for the construction of the building is about \$66,000.

In my judgment the American Insurance Union is without power to enter into or maintain this contract. It does not come within either of the three classes of investments which fraternal beneficiary associations are authorized to make.

First, it is not an investment in public bonds.

Second, it is not a mortgage, for no security whatever is given for the loan. The interest is only payable out of the rent of the building constructed and the



sinking fund, which is designed to repay the loan, depends for its accumulation upon the same source.

Third, it is not an investment in real estate for the accommodation of the association in its transaction of its business. It is doubtless true that the association can either buy or lease real estate for this purpose, both under Section 3599 of the Revised Statutes and under the general corporation laws of the state; but the contract here made is neither a lease nor a purchase. It is true that the ground upon which the building is erected is in form leased to the association for twenty-five years, but under the contract, which is made a part of the lease, the association has no control over any of the property except that portion which it is to occupy and for which it pays rent. The purpose and effect of the whole transaction seem to be to vest the title and management of the property in Fritter even during the twenty-five year period, during which the contract between the parties is in existence.

Before any action is taken by your department I suggest that The American Insurance Union and Mr. Fritter be given an opportunity to so adjust their relations as to conform to the laws of this state which limit the powers of fraternal beneficiary societies, and which do not authorize the several agreements herein considered.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### REMITTER OF EXCESSIVE TAXES BY SUPERINTENDENT OF INSURANCE.

Superintendent of insurance has no power to reduce amount of taxes due from insurance company for current year as remitter of excessive amount paid for preceding year.

December 7th, 1906.

HON. A. I. VORYS, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—Replying to yours of the 6th instant presenting the question as to your power to reduce the amount of taxes due from an insurance company for the current year when the amount of taxes paid during any preceding year by such company is excessive, I beg to say that I know of no authority giving the Superintendent of Insurance the right to make a remitter of taxes under the circumstances contained in your letter.

Irrespective of whatever remedy the company may have to recover the excess, if any, which it has paid to the state, the Superintendent of Insurance has no jurisdiction to refund such excess or to deduct the same from the taxes for which the company stands charged in your department.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### BUILDING AND LOAN ASSOCIATION—INCOMPATIBILITY OF OFFICES IN.

Offices of president and financial secretary of building and loan association organized under laws of Ohio may not be held by the same person; offices of finan-

cial secretary and treasurer of such association may not be held by the same person; third member of committee of such association to sign checks disqualified from acting as president or financial secretary thereof; regulations of such association determine additional principles upon which incompatibility may be determined.

December 15th, 1906.

HON. A. I. VORYS, *Inspector of Building and Loan Associations, Columbus, Ohio.*

DEAR SIR:— The question presented in yours of the 12th instant, upon which you desire an opinion of this department, is as follows:

Can the same individual hold the positions of president, financial secretary and treasurer; or president and financial secretary; or president and treasurer; or financial secretary and treasurer, of a domestic building and loan association?

Replying to such inquiry I beg to say that recognized legal authorities on the subject of building and loan associations say, that the principles of the law of agency govern the rules between the association and its directors and other officers, acting as its agents, as well as between it and agents employed for special purposes; (Endlich on Building Associations, 2nd edition, sec. 227).

This rule governs in the absence of special statutory directions, but where otherwise provided in the statutes of the state governing such associations, the directions therein contained must be adhered to. If there is an incompatibility in the duties imposed upon the respective officers above named, either by statute or by the code of regulations of such associations, then in so far as such duties are incompatible, they cannot be vested in the same individual.

It will thus be observed that such duties may be defined in the statutes or may be defined with more definiteness in the constitution and by-laws enacted pursuant to the provisions of Section (3836-3), R. S.

The questions not having been presented with reference to any particular code of regulations, the answers herein expressed have been deduced from a consideration of the powers conferred upon such officers by the statutes and the laws pertaining to corporations generally.

(1) As the statute (Section (3836-4), R. S.) requires, before any fund can be withdrawn from the depository named by the board of directors, the check therefor must be signed by both the "president and financial secretary," or such other officers as the board of directors may designate. The conclusion is that if the board of directors has not otherwise designated different officers than the ones named in the statute to sign checks for the withdrawal of funds of the association, it becomes the duty of the president and financial secretary to each subscribe his name to such checks. This presupposes that there must be two individuals to act under such direction, and thus afford greater precaution against improper withdrawal of funds, and it would follow that in such instances, the positions of president and financial secretary should not be held by the same individual.

(2) By the same section the treasurer is required to deposit funds in the name of the corporation, in the bank which has been designated as the depository by the board of directors. It is ordinarily made the duty of the secretary to pay over the money received by him to the treasurer, and the treasurer makes the deposit of the same. Manifestly these powers should not be concentrated in the same individual but should be separately conferred, so that the plain intention of the law may be complied with, and such officers, namely secretary and treasurer, made to serve as checks upon each other.

(3) Many associations have provided that the president, financial secretary and some other officer in addition thereto, shall be required to sign all checks. In such event the other officer, whoever it may be, would be likewise disqualified from serving as either president or financial secretary, and vice versa.

(4) Section (3836-1), R. S., provides that building and loan associations may be organized and conducted under the general laws of this state relating to corporations, so far as they do not conflict with the special provisions made for their regulation. The officers of such associations are not specifically named in the special chapter pertaining to such associations, but those which are recognized therein are a president, financial secretary, treasurer, and the board of directors. Others may be provided for by the constitution and code of regulations, and by analogy they could be similar to those provided in Chapter 1, Title 2. Division 2, Part Second, of the Revised Statutes, governing corporations generally. If they are provided for, and their duties defined, the definition thereof would determine whether the powers of such additional officers should be united with those of any other officer, for if such powers are incompatible their union would be forbidden by the law of agency.

By reference to the principles thus announced, it will be easy in any given instance to determine whether any two offices should be united in the same individual.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



## (To Various State Boards.)

## AGRICULTURE—STATE BOARD OF—MEMBERSHIP IN.

Right of Carthage Hamilton County Agricultural Society to membership in state board of agriculture to be determined by said board.

February 5, 1906.

HON. W. W. MILLER, *Secretary State Board of Agriculture, Columbus, Ohio.*

DEAR SIR:—Your inquiry of recent date relative to the right of the Carthage Hamilton County Agricultural Society to membership in the State Board of Agriculture, is received. You say that Hamilton County has a regularly organized agricultural society known as the Hamilton County Agricultural Society, which holds its annual fairs at Oakley and has a membership in the State Board of Agriculture, receiving the per capita fund out of the county treasury authorized by Section 3697.

That the Carthage Hamilton County Agricultural Society holds its annual fairs at Carthage and has been organized since the Hamilton County Agricultural Society has ceased holding its fairs at Carthage. You inquire whether, under Sections (3916-25) and following, the said Carthage Hamilton County Agricultural Society is entitled to membership in the State Board of Agriculture and to receive the per capita fund provided by Section 3697?

In reply I beg leave to say that in my judgment Sections 3692 and 3697 provide for only one agricultural society in the county and the question as to which of these two societies is to be recognized and participate in the per capita fund will be determined by the State Board of Agriculture.

Very truly yours,

W. H. MILLER,

*Ass't Attorney General.*

## BOARD—ADMINISTRATIVE—MEMBER OF, MAY NOT HOLD SALARIED POSITION THEREUNDER.

Member of state board of agriculture ineligible to appointment to salaried position thereunder.

June 18, 1906.

HON. T. L. CALVERT, *Secretary State Board of Agriculture, Columbus, Ohio.*

DEAR SIR:—Your letter of June 14th requests a written opinion upon the following question:

“May a member of the State Board of Agriculture be appointed to a salaried position under such board and draw public money?”

There is no express statutory or constitutional prohibition rendering members of the State Board of Agriculture ineligible to appointment by the board to hold positions under said board. It is, however, against public policy for members of any board of public officers to appoint one of its own members to any office or employment within the control of said board. Where the vote of the member

appointed is necessary to the appointment, such appointments have universally been held void.

Throop on Pub. Officers, Sections 610, 611;

Ohio v. Taylor, 12 O. S., 130;

State v. City of Newark, 6 Nisi Prius, 523.

And where the salary of the appointee or the duration of his appointment and the extent of his duties are fixed by the board, and it is the duty of the board to exercise general supervision and control over said appointee, to inspect his accounts or approve his expenditures, it is manifest that the same person should not be at the same time appointee and member of the board. It is the entire board to which the state has intrusted supervision and control of the various officials and employes appointed by it. If one member of the board is employed in one capacity, another may be employed in some other capacity, and the effectiveness of supervision by the board as a safe guard against misconduct by its appointees would be seriously impaired.

The incompatibility between the positions of member of an appointing board and appointee of such board is founded on the old rule that an agent cannot contract with himself. As stated in Throop on Public Officers, Section 610:

"This doctrine is generally applicable to private agents and trustees, but to public officers it applies with greater force and sound policy requires that there be no relaxation of its stringency in any case which comes within its reason."

I am therefore of the opinion that the board of agriculture may not appoint one of its members to any salaried position under said board.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### BOARD OF STATE CHARITIES—APPOINTMENT OF MEMBERS OF.

Appointment of members of board of state charities need not be confirmed by senate.

February 14, 1906.

HON. H. H. SHIRER, *Secretary Ohio Board of State Charities, Columbus, Ohio.*

DEAR SIR:—Your communication dated February 13th is received. You say that Governor Herrick, in his message to the Senate, includes the names of the three persons who were appointed as members of the Board of State Charities; that neither the Constitution nor the Revised Statutes of Ohio require a confirmation by the Senate of these appointments and you inquire whether or not these names should be withdrawn from the Senate.

In reply I beg leave to say that on investigation, I find no law requiring these appointments to be confirmed, and I see no objection to your requesting the Governor to withdraw the names from the consideration of the Senate.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## STATE HOSPITAL FOR THE INSANE — ADMISSION TO.

Actual residence within the state of Ohio required by Section 700 R. S., for admission to state hospital for the insane; technical domicile not sufficient.

March 3d, 1906.

HON. H. H. SHIRER, *Secretary Ohio Board of State Charities, Columbus, Ohio.*

DEAR SIR:—Your letter of March 1st with reference to commitment of a minor son of Mrs. Wells to the State Hospital for the Insane, is at hand.

You state that while he resided at Oregon, Illinois, he was committed to the Illinois Western Hospital for the Insane; that Mrs. Wells has resided in this state for several years; has been divorced from her husband and has been given the custody of her son.

In my opinion she is not entitled to have her son committed to the Hospital for the Insane in this state. Section 700 of the Revised Statutes provides:

“No person shall be admitted to either of the hospitals belonging to the state, except an inhabitant of the state, unless by joint resolution of the General Assembly, which joint resolution shall specifically name the person to be admitted, and no person shall be considered an inhabitant within the meaning of this chapter who has not resided within the state one year next preceding the date of his or her application, and no person is entitled to the benefits of the provisions except those whose insanity has occurred during the time such persons have resided in the state.”

The words “resided within” mean having an actual dwelling place within this state. The boy in question does not reside in this state, even though his technical legal domicile may be in this state.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## BOARD OF COUNTY VISITORS — EXPENSE OF.

Payment of expense of board of county visitors contingent upon certificate of probate judge as to satisfactory performance of duties; should be paid as soon as such certificate issued.

July 25, 1906.

*The Ohio Board of State Charities, Columbus, Ohio.*

GENTLEMEN:—Replying to the questions presented in yours of the 24th inst. I beg to say that the purpose of the act of the General Assembly of the State of Ohio approved March 3d, 1906, amending Sections (633-15), (633-16) and (633-17) R. S. (98 O. L. 28), is apparent when the amendatory act is compared with the law existing at the time of the amendment. The new matter contained in Section (633-15) providing for the payment of the actual and necessary expenses incurred by the Board of County Visitors or by any member or members selected by said board for the performance of the duties defined in that section, requires as a condition precedent to the payment of such expenses, not exceeding \$100 per annum, that the probate judge of the county shall have issued his certificate that the members of the board have satisfactorily performed their duties as provided in Section (633-16) and (633-17) R. S.



No compensation is allowed to any member of the Board of County Visitors, nor to such person as may be selected by said board, but only their necessary expenses. The act should receive such construction as would authorize the payment to the members entitled to the same of the expenses incurred in the performance of their duties, and such payment should be made without unreasonable delay, after the service has been performed and the amount thereof presented to the county commissioners for allowance. As the creation of the expense could only properly be in the performance of the duty, it is incumbent upon the board to make it appear to the probate judge that labor has been performed, and this can be done quarterly. The certificate to the probate judge could then be made, quarterly, after the expense of the quarterly visitation had been incurred, as contemplated by Section (633-16) R. S.

When the expense of the board for the last quarter of the year is presented, there should also be prepared and presented a full report of its proceedings for the entire year, in the form suggested in Section (633-17) R. S. The probate judge can then issue his certificate for the last quarter and the expense for that quarter should then be allowed. In this manner after quarterly certification to the performance of the duties of the board, the members of the board can receive early payment of the expenses incurred by them, and the requirements of the act will be complied with.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### OHIO STATE BOARD OF DENTAL EXAMINERS — POWER OF.

Power of board to require new application and to exact additional fee from applicant who fails to present himself for examination at the first meeting of the board after filing application.

November 5, 1906.

DR. H. C. BROWN, *Secretary Ohio State Board of Dental Examiners, Columbus, Ohio.*

DEAR SIR:—I have your letter of October 25th in which you request an opinion as to whether a person who has filed an application and paid the required fee for examination, and who fails to present himself at the first meeting of the board after filing his application, as specified in Section 4404 R. S., is entitled to an examination at any subsequent meeting of the board without making a new application and paying another fee.

The answer to this question is involved in some doubt. The provision that the "applicant shall present himself before said board at its first meeting after filing his application" is susceptible, in my opinion, of two possible constructions. Statutory requirements of this nature are held mandatory or directory accordingly as courts are satisfied that some reason does or does not exist, because of which the strict language of the statute should be given effect. Thus, if this question were presented to a court, and the court were satisfied that the legislature contemplated the possibility of such change of status on the part of the applicant after the first meeting of the board as to render his admission to a subsequent examination without new qualification inadvisable, the statute would be held to be mandatory. Under such a decision the board would be obliged to exact a new application accompanied by a new fee, in every case where the applicant might fail to present himself at the first meeting of the board after filing his application.

If, on the other hand, the court were satisfied that there could be no impropriety in allowing an applicant who has failed to present himself at such first meeting to be examined at a subsequent meeting, having regard to the purpose of the whole registration act, the statute would be held to be directory. This holding would be, in accord with the prevailing rule where a designation of time, unsupported by any special reason for denying legal effect to acts under the statute not done within the time designated, is in question. (Sutherland on Statutory Construction, Section 612.)

Such decision would carry with it the implication that the board is vested with such discretion as is properly exercised by administrative boards in general. Under such a decision the board would be authorized to give an examination to an applicant who had failed to present himself at such first meeting, when satisfied that no change in the status of the applicant had taken place since the first application had been filed. A court taking this view of the question would probably regard the provision of Section 4404, that the board shall have power to "make reasonable rules and regulations for the purpose of carrying out and enforcing the provisions of this act" as conferring express authority for the exercise of such discretion. Whichever one of these views might be taken, should the authority of the board be called in question judicially, it seems clear that in the specific case mentioned in your letter, the board may properly require a new application and exact the payment of an additional fee.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### EMERGENCY — CREATION OF.

An emergency, within the intendment of Section (17-1) et seq., R. S., was created by the appointment to the offices of secretary to the governor and executive clerk of new incumbents after the enactment of the law found in 98 O. L. 365, providing a **fixed annual salary** for such officers.

July 26, 1906.

*To the Honorable, The Emergency Board of the State of Ohio, Columbus, Ohio.*

GENTLEMEN:—I have had under consideration the question of whether an emergency has arisen within the intendment of Section (17-1) et seq. Bates' Annotated Statutes, in the matter of the salary of the Secretary to the Governor, and the Executive Clerk in that office. The last General Assembly on April 2, 1906, (98 O. L. 365) provided that a fixed annual salary of five thousand dollars should be paid the former and three thousand dollars the latter, and that all fees collected by the office should be turned into the state treasury.

The incumbents of these two offices have been appointed since the passage of the act mentioned. The act provided that it

"should not operate to affect the compensation of any officer or employe named herein during his existing term"

and as it would not, therefore, affect those who were then occupying the offices mentioned no provision was made for the increased salaries although the law takes from one of the incumbents the fee which the fixed salary replaced. The change in the personnel of the offices could not have been reasonably anticipated and, in my opinion, the resulting insufficiency in the appropriations made for these



officers should be taken up by the emergency board and the expenditure should be authorized of such additional amount as may be necessary to cover the difference between the amounts appropriated and that necessary to pay the straight salaries provided for by the amended statute.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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EMERGENCY—PRESENT UNAVAILABILITY OF APPROPRIATIONS  
MADE BY GENERAL ASSEMBLY IS NOT SUCH, AS AUTHORIZES  
CREATION OF DEFICIENCY.

Fact that appropriations made for railroad commission unavailable until expiration of eighteen months from appointment of commission does not authorize said commission to create deficiency such as may invoke the powers of the emergency board.

August 15, 1906.

*To the Emergency Board of the State of Ohio, Columbus, Ohio.*

GENTLEMEN:—I have had under consideration the application of the Railroad Commission of Ohio for authority to create deficiencies and your request for an opinion as to the power of the board to grant the several requests made by the commission. The power to appropriate money or bind the state to the expenditure of money is exclusively a legislative power. The only theory upon which the exercise of any power by your board can be sustained is that the General Assembly may delegate to certain of its officers the power to pledge the good faith of the state. Assuming that the General Assembly has this authority, an examination of the act creating your board shows that it has conferred the least possible power consistent with the state's necessities. It has not given the board power to substitute its judgment for that of the General Assembly or to correct any supposed failure of that body to perform its duty.

The act creating the Emergency Board, Sec. (17-3), Bates' Annotated Ohio Statutes, authorizes "deficiencies to be made" only "in case of an emergency." An emergency is defined by the Century Dictionary as "a sudden or unexpected happening; an unforeseen occurrence or condition." It must follow, therefore, that "emergency" and "unforeseen emergency" mean the same thing. In *Ampt. v. City of Cincinnati*, 1 N. P. 379, a case was under consideration involving a very similar question, the exercise of certain powers there depending upon the construction of Section 2690*h* of the Revised Statutes which authorized the proposed action only in case "any unforeseen emergency happen." In enjoining the action proposed Judge Sayler said:

"In order that an appropriation may be made from the contingent fund under Section 2690*h* to provide for a deficiency in any specific appropriation made under this section for a fiscal half year, it is necessary that a deficiency shall lawfully and by an unforeseen emergency happen; something unforeseen shall happen affecting the object for which the specific appropriation is made, and which, by requiring an unexpected expenditure of the money appropriated to that particular object, has caused, or will cause a deficiency in the appropriation."

From this it must be concluded that the board is strictly limited in its actions to actual causes of new conditions arising since the adjournment of the General



Assembly, such as create an actual emergency in the business of the state, and one which was not foreseen or contemplated by the legislature when considering the subject involved.

Now the General Assembly contemplated the needs of the Railroad Commission of Ohio, and made for it appropriations as follows:

Salary of three commissioners for one year and six months..	\$22,500.00
Salary of clerks for one year and six months.....	8,550.00
Contingent expenses .....	4,500.00
Traveling expenses .....	3,000.00

In addition to this the General Assembly appropriated for the Commissioner of Railroads and Telegraphs for the year beginning February 15, 1906, as follows:

Balances and receipts.	
Salary of commissioner.....	\$3,000.00
Salary of chief clerk.....	2,400.00
Salary of statistical clerk.....	1,200.00
Salary of chief inspector.....	1,200.00
Salary of deputy inspector.....	1,200.00
Salary of stenographer.....	1,200.00

It also made similar appropriations for the Commissioner of Railroads and Telegraphs for the year beginning February 15, 1906. The "balances and receipts" above mentioned are those arising under Section (250-2) of the Revised Statutes.

The General Assembly in Section 36 of the act creating the Railroad Commission, 98 O. L. 358, provided:

"All powers, duties and privileges imposed and conferred upon the Commissioner of Railroads and Telegraphs of this state under existing laws are hereby imposed and conferred upon the commission created under the provisions of this act; provided, that the powers and duties conferred and imposed upon the Railroad Commissioner by laws in force at the passage of this act shall continue to be exercised by him until the commission provided for in Section 1 of this act has been appointed and qualified, whereupon the office of Commissioner of Railroads and Telegraphs is hereby abolished."

Among other powers and duties that the Commissioner of Railroads and Telegraphs had was that of disbursing the funds derived from the railroads of the state under Section (250-2) when the money was properly appropriated, as it was appropriated by the last General Assembly, and of disbursing all the other funds appropriated so far as such disbursement is necessary and this power now belongs to the Railroad Commission and the funds so arising and so appropriated are liable for its needs.

The fact that some of the appropriations are not available and will not be until February 15, 1907, does not affect the question. A similar exigency arose in the case of the Commissioner of Highways in 1904, but the Emergency Board concluded, and in my opinion properly so, that no emergency thereby arose and that it had no power to amend the law making the appropriation. These appropriations having been made, contracts may be lawfully entered into as against them. The General Assembly has only prohibited the disbursement of such funds from the treasury until February 15, 1907.

The Railroad Commission has now all the direct appropriations made for

the Commissioner of Railroads and Telegraphs for the current year; all the direct appropriations made for that officer for the succeeding year; all the appropriations made directly to the Commission, sufficient in the judgment of the General Assembly, for eighteen months; and all the proceeds of the special tax under Section (250-2) available generally for the needs of the Commission as it may determine such needs.

My conclusion, therefore, is that the Railroad Commission may use any and all of these funds for the purposes for which they were appropriated, and may use for any lawful needs, not otherwise provided for, the monies arising under the special tax above referred to; but that the Emergency Board is without authority to allow the creation of deficiencies for any of the purposes proposed by the Commission.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### HEALTH OFFICER — PUBLICATION OF RULES OF.

Rules and regulations of health officer intended for guidance of general public should be published in the same manner as municipal ordinances, etc.

January 3, 1906.

DR C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR: — Acknowledging the receipt of yours of the 26th ultimo I have given consideration to the question therein presented, and beg to advise you that Section 124 of the Municipal Code must be construed in connection with Sections 1694, 1695, 1696 and 1697 R. S., which sections are still in full force and effect.

From the consideration of these acts it is apparent that it is the policy of the General Assembly to provide for the publication of all ordinances, resolutions and other matters requiring legal publication to be made in one or more papers, either daily or weekly, as provided by the statutes, published within the limits of the municipality and of general circulation therein. But if there is no paper published therein it is sufficient to cause the same to be published in a newspaper having circulation in such village though not published therein.

The rules of a health officer or of a board of health should be published with the same care as the ordinances of cities and villages when the same are intended for the general public and not as mere orders and regulations for the government of the board. This is required by Section 2118 R. S. (95 O. L. 424).

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### EXPECTORATING ON FLOOR OF STEAM CARS, ETC.

State board of health has power to adopt rules prohibiting expectorating on floor of steam cars, etc.; enforcement of such rules is properly within the province of local boards and health officers, but in case of failure of local authorities to act, state board may cause prosecutions to be brought.



January 6th, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR:—I am in receipt of yours of the 3d inst., requesting an opinion from this department upon the powers of the State Board of Health to adopt and enforce orders prohibiting the spitting on the floor of steam cars, interurban electric cars, or other public conveyances not operated within the limits of any municipality.

I call your attention to Section (409-25) R. S., in which the General Assembly has limited the authority of the State Board of Health in making and enforcing *orders in local matters* only in such cases "when emergency exists, and the local board of health has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established."

It is by the same act made the duty of the local boards of health, and other health authorities to enforce all sanitary rules and regulations adopted by the State Board of Health and in the event of failure or refusal on the part of any member of such boards or other officials and persons mentioned in that act to do so, he or they shall be subject to a fine of not less than \$50.00 upon a first conviction and upon conviction for a second offense of not less than \$100.00.

It is apparent that the power is given to the State Board of Health in such matters to adopt a rule with relation thereto, and to cause the same to be executed by the local boards of health and health authorities and officials, and it is only when they fail to act or in case of an emergency, that the State Board of Health is authorized to act. In the latter event prosecutions for violation of such order may be brought by any officer, member of the state or local boards of health or any official or private person.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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EXPECTORATING ON FLOOR OF STEAM CARS, ETC.

When arrest for expectorating on floor of steam cars, etc., may be made without warrant.

March 1st, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR:—Replying to yours of the 24th ult., I beg to say that if a police officer sees an individual violating the order recently adopted by the State Board of Health to prevent expectorating in railway cars, he can arrest the offender without a warrant, or he can make an arrest upon complaint of an employe or other person who witnessed the violation of such order, without a warrant having been first issued therefor. Such officer has authority to arrest a person when he has reason to believe that such person has committed any crime or offense against the laws of the state or ordinance of a municipality or orders of the board of health lawfully made.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



PUBLICATION OF ORDERS, RULES AND REGULATIONS ADOPTED BY  
STATE BOARD OF HEALTH.

What is due publication of the various orders, rules and regulations adopted by the state board of health under the authority of Sec. (409-25) R. S.

April 19th, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR:— Acknowledging the receipt of your recent letter requesting a written opinion of this department upon the question of the due publication of rules and regulations adopted by the State Board of Health, pursuant to the requirements of Section (409-25) R. S., I beg to say that the powers conferred upon the State Board of Health by that section of the Revised Statutes include the following:

“The board may make special or standing orders or regulations for the prevention of the spread of contagious or infectious diseases, and for governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by a universal rule. It may also make and enforce orders in local matters, when emergency exists, and the local board of health has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided in this chapter, and all necessary expenses so incurred shall be paid by the city, village, or township for which services are rendered. It shall be the duty of all local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employes of the state, or any county, city or township thereof, to enforce such quarantine and sanitary rules and regulations as may be adopted by the state board of health, and in the event of failure or refusal on the part of any member of said boards or other officials, or persons in this section mentioned to so act, he or they shall be subject to a fine of not less than fifty dollars, upon first conviction, and upon a conviction of second offense of not less than one hundred dollars,” etc.

No express provision is made by the statutes of this state with regard to the publication of special or standing orders or regulations of the State Board of Health, but by Section 2118 R. S., the provision is made with regard to the boards of health of any *city, village, hamlet or township*, that the orders and regulations made by them not for their government, but intended for the general public, shall be adopted, advertised, recorded and certified as are ordinances of cities and villages. If the state board of health is proceeding pursuant to the latter power contained in the above quoted matter from Section (409-25) R. S., to make and enforce orders in local matters when emergency exists, etc., such orders and rules in such matters should be published as required by the provisions of Section 2118 R. S.; but when the board is proceeding under the first quoted power to “make special or standing orders or regulations for the prevention of the spread of contagious or infectious diseases” etc., and has pursuant to such powers adopted an order or regulation relative to spitting in interurban and steam railway cars and stations, the board may, pursuant to such power therein contained, make a reasonable rule for the publication of all such latter described orders, and the same should include a notice to each person, firm, partnership, association or corporation owning or operating interurban or steam railways, cars and stations, and a requirement that the same

be posted in a public and open manner in such cars or stations. It would be reasonable also to order that copies of such rules and regulations be published in the local newspapers and to send them to the boards of health, health authorities and officials and other officers to be affected thereby, or whose duty it is made to enforce the same.

Your department will be assisted, pursuant to the requirements of Section 202 of the Revised Statutes, by counsel furnished by this department, as the interests of the board and of the state may demand.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### HEALTH OFFICER — VILLAGE — CREATION OF OFFICE BY COUNCIL — APPOINTMENT TO SAME BY STATE BOARD OF HEALTH.

Council of village having village board of health may create office of village health officer by ordinance abolishing board and creating office; upon failure of council to provide for filling such office so created, state board of health may appoint to same.

May 10, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR:—Replying to yours of the 8th inst. I beg to advise you that where an ordinance of a village has established a board of health if the village desires to abolish the board of health and appoint a health officer, it should be done by repealing the ordinance which created the board and appointing a health officer; and in villages the appointment of such health officer abides in the village council.

In the event that council passes an ordinance abolishing the board of health and also passes an ordinance creating a health officer in lieu of such board of health, the board of health thus abolished would not continue to serve until a health officer was named by the village council, because, upon their failure to create such position and name such officer it would devolve upon the State Board of Health pursuant to powers contained in Section 187 of the Municipal Code, to appoint a health officer for such village.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### HEALTH OFFICER — VILLAGE — CREATION OF OFFICE BY COUNCIL — FORMALITIES.

Ordinance of village council creating office of health officer must be enacted with same formalities required for creation of village board of health.

May 14, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR:—Replying to yours of the 11th inst. and as supplemental to my letter to you on the 10th inst. I would say that in the case mentioned by you it is necessary for the village council to pass an ordinance creating the office of

health officer with the same formality as would be required for establishing a board of health.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### LIVE STOCK — POWER OF MUNICIPAL BOARD OF HEALTH TO REGULATE KEEPING OF.

Municipal board of health may provide reasonable regulations prohibiting the keeping of live stock in thickly populated portions of cities or villages.

May 28, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR: — The keeping of live stock of any character within a thickly populated portion of a city or village can be provided against by a local board of health, if it produces such conditions that are noxious and offensive and such as might properly be defined to be a nuisance. Such conditions are valid subjects of regulation and prohibition to be enforced by local boards of health.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### GARBAGE DISPOSAL PLANT — APPROPRIATION OF LAND FOR.

Municipal corporation may appropriate land for garbage disposal plant.

June 11, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR: — Replying to yours of the 8th inst., I beg to advise that it is within the power of municipal corporations to appropriate, enter upon and hold real estate inside or outside the municipal limits of a city or village for the purpose of a garbage disposal plant or farm, pursuant to the provisions of Sections 10 and 11, and related sections, of the Municipal Code.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### ANTITOXIN — GRATUITOUS DISTRIBUTION OF.

Municipal board of health may furnish antitoxin gratuitously to indigent persons, at expense of municipality.

June 19, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR: — I beg to acknowledge the receipt of your inquiry of the 14th inst., and your request for an opinion upon the following question:



Have local boards of health authority to furnish antitoxin gratuitously to indigent persons, both for the treatment of those afflicted with diphtheria as well as for the prevention of the disease in persons exposed thereto?

The General Assembly of the State of Ohio has conferred upon each municipal corporation and township organization of the state, the power to create a board of health or health officer, and has vested authority in such boards or officers to make orders and regulations of certain general characters hereinafter specifically noted.

The necessity of the creation of such boards or officers, is evidenced by the mandatory character of the legislation relating thereto. (*State ex rel. Miller v. Massillon*, 2 O. C. C. (N. S.) 167). The power of such boards to enact or make orders and regulations is not specifically limited to certain definite subjects, but the grant of power is made to the boards in the most general language, leaving to the boards the adoption of such rules as they "may deem necessary" for the accomplishment of the purpose of their creation.

It is in the following language:

"Section 2118 R. S. The board of health of any city, village, hamlet or township may make such orders and regulations as it may deem necessary for its own government, for the public health, the prevention or restriction of disease and the prevention, abatement or suppression of nuisances. All orders and regulations not for the government of the board, but intended for the general public, shall be adopted, advertised, recorded and certified as are ordinances of cities and villages; and the record thereof shall be given, in all courts of the state, the same force and effect as is given such ordinances; and in townships the posting of such orders and regulations in five conspicuous places within the township shall be deemed a sufficient notice thereof."

This power of ordaining, enacting or making rules or regulations is limited by the rule that the orders and regulations it adopts must be of such general character as will bring them within the subject conferred, viz: the preservation of the public health, and the restriction of disease. They must in some degree tend to secure, maintain and preserve the public health.

The Hamilton common pleas court in the case of *Cincinnati v. Allison*, 12 O. D. 376, 379, said upon this subject:

"It may be considered a legal axiom that the preservation of the public health is a proper and necessary exercise of the police power of the state; that boards of health are appointed as subordinate departments of the state, charged with the general supervision of the interests of the health of the community, and vested with power to make regulations for preventing the spread of disease, and in other ways care for the public health. These powers are usually expressly granted by the General Assembly but irrespective of any express provision, the preservation of the health and safety of the inhabitants being one of the chief ends of local government, the power to pass reasonable regulations to effect this, must be allowed an implied power. In our state, this power is granted expressly in Section 2118 R. S. as follows:" (Thereupon the court quotes the foregoing section of the Revised Statutes.)

In the case of *Walton v. City of Toledo*, 3 O. C. C. R. (N. S.) pp. 295, 300, that court said:

"It is needless to say that the powers of the board of health are very large. If you read the whole statutes of the State of Ohio on the subject you will find that the powers that are given to the various boards of health and the laws enacted for the purpose of protecting the people of the state from contagious diseases and from the sale of diseased or impure articles, are about as broad as language can make them; they extend into every relation of life and the protection of health is one of the most important departments that the legislature has to deal with, or that the city council has to deal with under the powers conferred upon it by the legislature of the state in carrying out the general police powers of the state."

The board of health is made the judge of the proposed agency, and of the probability of its tendency to prevent or restrict disease. In view of the data submitted by you with your letters there can be no doubt of the efficiency of the agency proposed, and that its general use would tend to the prevention and restriction of diphtheria. We might here employ the language of the Supreme Court of the United States used in the case of *Jacobson v. Mass.*, 179 U. S., p. 11, in which was considered a resolution of the Board of Health of the City of Cambridge, which provided for the enforcement of compulsory vaccination. (Page 31.)

"In view of the methods employed to stamp out the disease of smallpox can any one confidently assert that the means provided by the state to that end has no real or substantial relation to the protection of the public health and the public safety? Such an assertion would not be consistent with the experience of this and other countries whose authorities have dealt with the disease of smallpox."

Again the code for the government of health boards recognizes the contagious and infectious character of diphtheria and in the enactments for the exercise of their powers in connection therewith expressly provides:

" \* \* \* and when any contagious or infectious disease shall become or threaten to become epidemic in any city, village, hamlet or township, and the local authorities shall neglect or refuse to enforce *efficient measures for its prevention*, the State Board of Health, or the secretary as its executive officer, on the order of the president of said board, may appoint a medical or sanitary officer and such assistants as he may require, and authorize him to enforce *such orders or regulations* as said board or its executive officer may deem necessary."

The Supreme Court of Minnesota on the 6th day of June, 1902, in the case of *State v. Zimmerman*, 90 N. W. Rep. 783, in construing health legislation, said:

"The legislative grants of power to municipalities, intended to secure the preservation of the public health, and to provide for the enforcement of proper and necessary sanitary regulations to prevent the spread of contagious diseases, are, notwithstanding the individual liberty of the citizen, is, in a measure, involved, entitled to the broad and liberal construction by the courts, in aid of the beneficial purpose of their enactment. *A general grant of power in broad and comprehensive terms, to do all acts and make all rules and regulations deemed necessary and expedient for the preservation of the public health*, vests in the authorities to whom is granted power to enforce in cases of emergency, rendering



it reasonably necessary in the interests of the public health and for the prevention of the spread of smallpox, a regulation requiring children to be vaccinated as a condition to their admission to the public schools."

And in the case of *Jacobson v. Massachusetts*, *supra*, the Supreme Court of the United States held, that reasonable regulations are within the police power of the state, and authority to make the same may be delegated to local bodies.

If the contemplated order or regulation is within the spirit of Section 2118 R. S., can the expense thereof be provided for as legitimate expenditures of the board of health?

I am of the opinion that the expense thereby created is included within the language of Section 2138 R. S., and that the following language, there employed, is not limited to periods of epidemic, viz:

"And when expenses are incurred by the board of health, under the provisions of this chapter, it shall be the duty of council, upon application and certificate from the board of health, to pass the necessary appropriation ordinances to pay the expenses so incurred, etc."

I therefore conclude, that, in the event of the prevalence of diphtheria in a given community, if the local board of health duly adopt an order or regulation to furnish antitoxin for the treatment of indigent persons afflicted with such disease or exposed thereto, the indebtedness thereby created would be a valid indebtedness of the municipality or the taxing district, in which the same was thus authorized.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### SEWERAGE SYSTEM—CHANGE IN OUTLET OF—APPROVAL OF STATE BOARD OF HEALTH.

Approval of state board of health necessary to proposed change or extension of outlet of municipal sewerage system.

July 6, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR:—Your letter dated June 29th inquiring whether or not municipal authorities may make any change or extension in the outlet of any sewerage system now in use, without first obtaining the approval of the State Board of Health, is received.

The several inquiries you submit may be answered together. The latter part of Section (409-25) R. S., provides as follows:

"No city, village, corporation or person shall introduce a public water supply or system of sewerage, or change or extend any public water supply or outlet of any system of any sewerage, now in use, unless the proposed source of such water supply or outlet for such sewerage system shall have been submitted to, and received the approval of the State Board of Health."

The evident intent of the legislature in requiring the approval of the State Board of Health before any change or extension may be made in any system



of sewerage now in use is to give to the State Board of Health absolute control over the outlet of sewerage systems.

I am, therefore, of the opinion that whatever may be the nature of the change in the outlet sought to be made in a sewerage system now in use by any municipality, such change may not be made without first obtaining the approval of the State Board of Health as required in the portion of Section (409-25) R. S., as quoted above.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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BONDS — LIMITATION UPON AUTHORITY OF MUNICIPAL CORPORATION TO ISSUE, FOR CONSTRUCTION OF PUBLIC WATER SUPPLY.

Amount of bonded indebtedness incurred by municipal corporation may not, under "Longworth Bond Act," at any time exceed eight per cent. of the total tax valuation of all property within such corporation; such limitation applies to indebtedness incurred in construction of public water supply and systems of sanitation.

July 7, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR:—Yours of the 29th ult., addressed to this department contains the inquiry as to what amount of bonded indebtedness a municipal corporation may incur for the introduction of a public water supply, sewerage system or for purification plants for either water or sewage.

The authority to issue the bonds of a municipality for such purposes, is found in Sections 2835, 2835b, 2836 and 2837 Revised Statutes.

Consideration of the same evinces the intention of the General Assembly to limit the authority of all municipalities in the creation of bonded indebtedness for any and all purposes, including those above specified, in any one year to not exceed 1% of the total value of all the property of the municipality as listed and assessed for taxation. If the city council deem it necessary in any one fiscal year to issue bonds in any amount greater than 1% of the valuation of the property as contained on the tax duplicate they shall submit the question of issuing such bonds in excess of 1% to a vote of the electors of the municipal corporation, and when the vote is taken upon such proposition and is favorable thereto, the aggregate amount of all outstanding and unpaid bonds issued under the authority of the act referred to (95 O. L. 318, April 23, 1904), shall not exceed 8% of the total value of all the property as listed and assessed for taxation, within such municipality.

Municipalities in this state have, therefore, the authority to create or assume an aggregate indebtedness, after a vote thereon by the electors thereof, of 8% of such total valuation.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## NUISANCE—ORDER OF HEALTH OFFICER NO EXCUSE FOR.

Order of village health officer does not excuse from liability for creation of nuisance.

July 9, 1906.

DR. C. O. PROBST, *Secretary State Board of Health, Columbus, Ohio.*

DEAR SIR:—Replying to yours of the 6th inst. I beg to say that the fact that the owner of a creamery is complying with the orders of the health officer of a village by discharging the waste from a creamery into a stream, which discharge is creating a nuisance, does not relieve such owner from liability for the damages thereby occasioned; nor does it constitute a defense to an appropriate action to abate such nuisance.

The health officer has no more power to authorize the creation of a nuisance than any other officer. (Dillon on Municipal Corporations, Vol. 1, p. 448.)

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## STATE LIBRARIAN—SALARY OF.

Salary of officer appointed for indefinite term may be changed at any time: effect of failure of legislature to make sufficient appropriation for salary of state librarian, same being fixed by law; only amount appropriated may be paid out without new appropriation, but claim against state for balance exists in favor of officer.

September 18, 1906.

HON. C. B. GALBREATH, *Sec'y Board of Library Commissioners, Columbus, Ohio*

DEAR SIR:—Your letter of August 16th states that an act passed by the last General Assembly fixed the salary of the state librarian at \$3,000.00, but that only \$2,500 was appropriated for its payment. The present librarian was in office at the time the law changing the salary attached to the office, was enacted. You desire my opinion as to what salary may, under the circumstances, be paid.

No law prescribes the term of office of the state librarian, and I assume that the present incumbent was not appointed for any definite term. The salary of an officer appointed for an indefinite term, and subject to removal, may be changed at any time.

State v. Massillon, 24 C. C., 249;

Lexington v. Renick, 105 Ky., 779.

The present state librarian is therefore entitled to be paid the increased salary, if there is any fund out of which such payment may lawfully be made.

Article II, Section 22 of the constitution provides:

“No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.”

In the case of State v. Medbery, 7 O. S., 522, this constitutional provision was the subject of careful consideration. The court said, page 529:

"No claim against the state can be paid, no matter how just or how long it may remain due, unless there has been a specific appropriation made by law to meet it."

And again on page 530:

"But if the general assembly should authorize liabilities to be incurred and make no appropriation to meet them, but let each citizen who performed services or furnished materials to carry on the government, hold his claim against the state unpaid, debts to the amount of these claims against the state would at once be created, and remain debts at the end of the two years and until an appropriation was made to meet them, whatever public revenue might be on hand, inasmuch as every executive officer is forbidden by the constitution to pay any claim unless there has been a specific appropriation for that purpose made by law."

The fact that an appropriation is less than the salary fixed by law does not affect the right of an official to the full salary; (*John M. Langston v. United States*, 21 Court of Claims, 10; *Texas v. Steel*, 57 Texas, 200) but the difference between the amount of the salary and the amount of the appropriation cannot be paid until a new appropriation shall have been made.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### RECESS APPOINTMENTS — CONFIRMATION BY SENATE.

Effect of failure of senate to confirm appointment by governor during recess of general assembly to fill vacancy in board of medical registration and examination; appointee holds until successor qualified; no vacancy in office because of such failure to confirm.

March 23, 1906.

JOHN K. SCUDDER, M. D., *Ohio State Board of Medical Registration and Examination, Cincinnati, Ohio.*

DEAR SIR: — In your letter of March 21st you state that you were appointed a member of the Ohio State Board of Medical Registration and Examination by Governor Herrick in the interim between the present session of the senate and the one next preceding it; that your appointment was reported to the present session of the senate, which has failed to advise and consent to the appointment. You inquire whether you continue as a member of the board until Governor Pattison appoints your successor.

Section 12 of the Revised Statutes is as follows:

"In case of a vacancy in any office filled by appointment of the governor, by and with the advice of the senate, occurring by expiration of term, or otherwise, when the senate is in session, the governor shall appoint a person to fill such vacancy, and forthwith report such appointment to the senate; and when the senate is not in session, and no appointment has been made and confirmed, in anticipation of such vacancy the governor shall fill the vacancy and report the appointment to the next session of the senate; and if the senate advise and consent to the same, the person so appointed shall hold the office for the full term; and if the senate do not so advise and consent, a new appointment shall be made."



Governor Herrick was authorized, under this section, to appoint you. The term for which you should hold office was uncertain at the time of your appointment, being dependent, to some extent, upon the subsequent action of the senate. If they should confirm the appointment you were to hold office for the full term, but upon their failure to advise and consent the statute provides that a new appointment shall be made. When such appointment has been made and confirmed by the senate the appointee takes office and your term is at an end.

The wording of the statute is not clear but it seems to indicate that the condition subsequent which determines your office, is the appointment of a successor rather than the failure of the senate to consent to your appointment. The failure to consent is a negative act which makes it the duty of the governor to perform the positive act of appointing your successor. The senate is nowhere given the summary power of removal. Section 12a governing the removal of appointive officers for inefficiency etc., makes such removal in every case dependent upon the initiative of the governor. Any doubt as to the proper construction of Section 12 is removed by Section 8 of the statutes which is as follows:

“Any person holding an office or public trust shall continue therein until his successor is elected or appointed and qualified, unless it is otherwise provided in the constitution or laws.”

Section 12 contains no provision excepting officers appointed by the governor from the operation of the general rule prescribed by Section 8.

You will therefore continue to discharge the duties of your office until the appointment of your successor has been made by the governor and confirmed by the senate, unless you are removed in the meantime under the authority of Section 12a.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### MEDICAL REGISTRATION ACT.

Persons not having obtained certificate prior to July 1, 1900, must comply with Section 4403c R. S.

July 21, 1906.

DR. GEORGE H. MATSON, *State Board of Medical Registration and Examination, Columbus, Ohio.*

DEAR SIR:—I have your favor of July 16, regarding the application of Dr. Mara Wingate of the Ohio State Board of Medical Registration and Examination for a certificate permitting her to practice medicine in the state of Ohio. I note that you say that Dr. Wingate mailed an application for registration to a member of the Board in June 1900, and that, because of the absence of the member from his usual place of residence the letter failed to reach him, and was not presented to the Board for consideration until after July 1, 1900. I note also that the application is based upon a diploma from the Cleveland University of Medicine and Surgery, conferred March 23, 1896, and that the application is in all respects regular, and if properly presented to the Board would entitle the applicant to registration under the act of 1896.

The registration act, R. S., Section 4403c provides:

"All persons *authorized* and *entitled* prior to July 1, 1900, to practice medicine, surgery or midwifery in the state of Ohio, under and by virtue of the provisions of an act entitled, 'An act to regulate the practice of medicine in the state of Ohio,' passed February 27, 1896, to which this act is amendatory may engage in such practice, and shall be subject to the law regulating the same; and all other persons desiring to engage in such practice in this state, shall \* \* \* submit to the examination hereinafter provided."

A subsequent provision of the same section is as follows:

"Provided that nothing contained in this section shall be construed to compel any person *holding* or *obtaining*, prior to July 1, 1900, a *certificate* of the board, under the act to which this act is amendatory, entitling such person to practice medicine or surgery in this state."

It is clear that the last proviso above quoted cannot apply in this case, because Dr. Wingate neither *held* nor *obtained* a certificate prior to July 1, 1900. The question which then arises is: Was Dr. Wingate authorized and entitled to practice medicine in this state prior to July 1, 1900?

The pertinent provisions of the act of 1896 are as follows:

"No person shall practice medicine, surgery or midwifery, in any of its branches, in this state, without first complying with the requirements of this act. If a graduate in medicine or surgery, he shall \* \* \* present his diploma to the state board of medical registration and examination for verification. \* \* \* If the board shall find the diploma to be genuine, etc. \* \* \* the board shall issue its certificate to that effect \* \* \* which, when left with the probate judge for record as hereinafter required, shall be conclusive evidence that its owner is entitled to practice medicine or surgery in this state."

It seems clear that, to be "authorized and entitled to practice medicine," the applicant must not only have filed his application, but he must have received his certificate. It is the decision of the Board, and its action in the matter which authorizes the applicant to practice, not the act of the applicant in presenting his credentials; for if that were the case, the issuance of the certificate would be of no moment whatever. Accordingly, since Dr. Wingate, not having obtained a certificate of registration from the Board prior to July 1, 1900, was not, prior to that time, "authorized and entitled to practice medicine" under the act of 1896, she is amenable to the provisions of the act of 1900, and the Board is without authority to issue a certificate to her, under the act of 1896.

The fact that Dr. Wingate's application, if it had reached the Board in time, would have entitled her to a certificate, and that its failure to reach the Board was due to no fault of hers, does not affect the legal aspect of the case.

Very truly yours,

WADE H. ELLIS,

Attorney General.



STATE BOARD OF PHARMACY — EXAMINATION OF APPLICANTS  
REGISTERED IN OTHER STATES.

State board of pharmacy may require examination from applicant seeking registration on certificate obtained in another state.

May 8, 1906.

HON. WM. R. OGIER, *Secretary State Board of Pharmacy, Columbus, Ohio.*

DEAR SIR: — Your letter of May 4th asks the following questions as to the authority of the State Board of Pharmacy under paragraph 2, section 4409, R. S., as amended April 2, 1906:

1st. Is it mandatory or optional with the board to register pharmacists without examination who are registered in other states?

2nd. What authority is to determine the standard of qualification and requirement as to competency in another state?

3rd. May this board make the following ruling: "No application for registration as pharmacist in this state will be considered from any person seeking registration on a certificate obtained in any other state, when such person has failed in his examination before this board, within the period of one year preceding the date of his application for registration from another state."

Whether pharmacists who are regularly registered as such under the laws of other states, as set forth in Section 4409, shall be registered without examination by the board of pharmacy of this state, is left to the discretion of the board. The statute is permissive, not mandatory.

The board, itself, should determine by an examination of the statutes of other states whether the standards of qualification and requirements as to competency of such states are as thorough as those established by the board of pharmacy of this state.

In my opinion the board may make the ruling set forth in your third question.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

BINDING OF PUBLIC DOCUMENTS — RE-LETTING OF UNCOM-  
PLETED CONTRACT FOR.

Contract for binding public documents first let to the Ohio Institution for the Deaf and Dumb, and by it uncompleted may be re-let without advertisement or competitive bidding.

October 1, 1906.

*To the Honorable, the Commissioners of Public Printing, Columbus, Ohio.*

GENTLEMEN: — You have submitted to me the question whether the binding of certain executive reports delivered for that purpose to the printing department of the institution for the deaf and dumb, and not completed within a proper and reasonable time because of the pressure of other work and lack of necessary facilities, can be let by contract, without advertisement and without competitive bidding, to private firms or individuals.



Section 2 of Article XV of the constitution of Ohio provides that all printing for the general assembly or for any executive or other department of the state shall be let on contract to the lowest responsible bidder in a manner to be provided by law. Sections 319, 320 and 321 R. S. and other related sections, provide that all printing contracts shall be let by the commissioners of public printing after advertisement and to the lowest responsible bidder. Section 330 declares that the necessary binding for the state shall be provided for by the commissioners of public printing in such manner as they deem best and upon such terms as would be most advantageous to the state for periods not exceeding one year; but that before any award of contract is made the contractors must execute a bond in the sum of \$5,000 for the faithful performance of the contract. Section 328 provides that if for any cause the successful bidder on a printing contract fails to execute his contract with reasonable promptness the commissioner of public printing may enter into a contract with some other person, having regard to the lowest price; and further that if there is unfairness or fraud in the bids they may re-advertise and re-let the contract, and in the meantime they may provide for the printing upon such terms and in such manner as they deem most advantageous for the state. This section expressly declares that these provisions are in all respects applicable to the letting and re-letting of contracts for binding.

Section 340 R. S. declares that any printing or binding required to be done by the state not expressly embraced in the chapter on this subject shall nevertheless be controlled by the provisions of this chapter and the commissioners of public printing *may advertise for proposals thereon*.

Section 663 of the Revised Statutes provides that the book binding of the state shall be done *as far as practicable at the Institution for the Deaf and Dumb*.

Reading all these constitutional and statutory provisions together I am of the opinion that the word "printing" includes binding in so far as competitive bidding is necessary to the letting of contracts; and that the policy of the state is to require both binding and printing contracts to be so let after advertisement and to the lowest responsible bidder.

It seems clear, however, that while original contracts either for printing or binding ought, under our constitution and statutes, to be let to the lowest responsible bidder after public advertising, yet since upon failure or default of the contractor upon a printing contract the commissioners of public printing are authorized to get the work done in such emergency without competitive bidding, so where reports or pamphlets have been delivered to the bindery of the State Institution for the Deaf and Dumb with the expectation in good faith that the work would be done there, and for any cause it is not possible or practicable to complete the work at that institution, the balance of such binding so uncompleted may be by the commissioners of public printing let by contract upon the best terms procurable but without competitive bidding, if the time within which such work ought reasonably to be done shall not justify the delay required by advertising for proposals.

In any event I am of the opinion that such bids should be invited as can be procured without advertisement and the work should be let to the firm or individual offering to do it in the most acceptable manner for the lowest price.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

## RAILROADS — HOURS OF REST OF EMPLOYES.

Provision of section (3365-14) R. S., as to hours of rest of railroad employes, constitutional.

September 17, 1906.

*The Railroad Commission of Ohio, Columbus, Ohio.*

GENTLEMEN: — I have your inquiry requesting an opinion upon Section (3365-14) of the Revised Statutes. This section reads as follows:

“Any company operating a railroad over thirty miles in length, in whole or in part within the state, shall not permit or require any conductor, engineer, fireman, brakeman or any trainman on any train, or any telegraph operator who has worked in his respective capacity for fifteen consecutive hours, to again be required to go on duty or perform any work until he has had at least eight hours’ rest, except in cases of detention caused by accident, unavoidable or otherwise. Ten hours shall constitute a day’s work, and for every hour that any conductor, engineer, fireman, brakeman or any trainman, or any telegraph operator of any company who works under the direction of a superior, or at the request of the company, (works, he) shall be paid for such extra services in addition to his per diem.”

In the case of the *Wheeling Bridge and Terminal Railway Co. v. Gilmore* (8 C. C., 658), this section was under consideration, and so much of it as is embodied in the last sentence of the section was held to be unconstitutional. An examination of the section discloses its purpose to be two-fold.

First, it seeks to regulate the number of hours’ rest which certain railroad employes must have after fifteen consecutive hours of service. This is manifestly the proper and reasonable regulation for the protection of the lives and property of those dependant upon the physical ability of railroad employes to perform their duties. The remaining sentence of the section sought to regulate the contractual relations existing between the employe and the company and to provide for his compensation regardless of his contract. This last part of the section, and only this part, was held unconstitutional in the case cited. While the court did not have under consideration the first part of the section it must have recognized that that part of the section was within the provisions of the constitution. I quote from the body of the opinion:

“While corporations, like the plaintiff in error, have public duties to perform that the state may regulate by proper laws, and over whose business it may exercise such control as lies within the police power of the state, such, for instance, as is contained in the first sentence of Section 1 of the act in question, yet beyond this the state cannot interfere with the dealing and contracts of such companies with their employes who are *sui juris*, any farther than it lawfully can with those of other employers of labor.”

I advise you therefore that the first provision of this section has not been held unconstitutional and that your commission should proceed upon the theory that the first sentence of this section is a valid and subsisting law.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



## CAR SERVICE — CHARGE FOR LESS THAN TEN DAYS'.

Railroad company may charge for use of entire car for less period than ten days, provided such charge is not unreasonable; remedy of shipper for unjust and unreasonable charge.

September 18, 1906.

*Railroad Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—I have your inquiry as to whether Section 3227 of the Revised Statutes prohibits railroad companies from charging car service until after the expiration of ten days.

This section is in *pari materia* with Section 3221, and relates only to such consignments of freight as are covered by Section 3221. This latter section only relates to "the receipt of any property in their ware-house, depot, station, store or other place of deposit or doing business," and in my opinion, relates only to freight in less than car load lots.

In my opinion, therefore, Section 3227 does not prevent the railroad company from charging for the use of an entire car even though for a less period than ten days. I suggest, however, that in a proper case relief might be secured for a shipper having just complaint under the provisions of Section 14 of the railroad commission act, 98 O. L., 350.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## CASH FARE — MAY NOT EXCEED LEGAL RATE.

Railroad company may not exact sum in addition to legal rate with privilege of refunder from passengers failing to purchase tickets.

September 24, 1906.

*The Railroad Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—It appears from your inquiry that one or more railroad companies in the state of Ohio have adopted and are enforcing the rule that where a passenger fails to provide himself with a ticket, the conductor of the train shall collect the regular fare prescribed by law, 98 O. L. 4, and an additional sum of ten cents, and for said sum of ten cents issue a refunder for that sum redeemable at any ticket office of the company within thirty days. The propriety of reasonable regulations to induce the purchase of tickets by prospective passengers cannot be disputed, but the question raised by you is whether such rule is within the statute recited dimitting fares to two cents per mile.

An early case (1876) upon a similar question, is *Baltimore R. R. v. Boone*, 45 Md., 344. In this case a railroad was authorized to charge for certain transportation, the sum of eleven cents and no more. To induce the purchase of tickets, the railroad company required the passenger paying cash fare to pay twelve cents and to receive a "drawback" slip for one cent redeemable at the company's office. In considering this regulation, the court held:

"That the company has no right to claim from him more than eleven cents, that is to say six cents for the fraction of a mile beyond the city limits, and five cents for the route over its road in the city."



"That whilst the company might provide for any reasonable "draw-back" for its own security, it must be in the face of the law which gave it no authority to receive more than eleven cents. Below that limit, as a maximum, it could exercise its own discretion as to the amount of fare or any discount on the same."

Some years later (1890) a similar question arose in the supreme court of Pennsylvania. That court, apparently without examining the Maryland case, took an exactly contrary view. The syllabus is as follows:

"A railroad company has power to make reasonable regulations, not only as to the amount of passenger fares, but also as to the time, place and mode of their payment; this includes the right to refuse to carry without the previous procurement of a ticket, or to charge a higher rate of fare to passengers without tickets, provided a reasonable opportunity to procure them before entering the train has been afforded.

"A fortiori, a regulation requiring the payment of passengers neglecting to procure tickets of ten cents in addition to the regulation fare to be refunded on presentation at the ticket office of a check therefor, is valid, being neither unreasonable, oppressive, nor needlessly inconvenient to the traveler.

"Nor does a provision in such a regulation that it shall not be enforced as to passengers getting on trains at stations where no tickets are on sale, or when the presence of a large crowd upon a train renders it impossible for the conductor to collect the fares and tickets, if he takes time to issue such receipts to passengers without tickets, render the regulation unreasonable as not being general, fair and impartial.

"The additional sum so to be paid by the passenger and afterwards refunded to him, is not a charge for transportation, within the meaning of a provision in the company's charter limiting such charges to a certain rate per mile; wherefore, the fact that the fare and such additional sum may exceed the authorized maximum charge for transportation, does not constitute a violation of the charter."

Reese v. Pennsylvania Ry. Co., 131 Pa. St. 422.

The question again arose (1902) in Weber v. Southern Ry. Co., 65 S. C., 356. The third paragraph of the syllabus by a majority of the court reads:

"Railroad companies have no right to charge a passenger who does not buy tickets when opportunity is given, excess fare and give rebate checks therefor, between points within this state."

In the following year a majority of the same court, in Fullmer v. Southern Ry. Co., 67 S. C., 262, followed the last mentioned case, and expressed itself as follows:

"The railroad companies of this state have no right to demand and collect of passengers boarding trains without tickets an excess fare of twenty-five cents over maximum rate fixed by statute, where such passengers have an opportunity to purchase tickets at regular ticket offices before boarding trains."

While the syllabus quoted does not disclose the fact, the amount of "excess

fare" charged was to be repaid to the passengers within twenty days upon demand.

Our own supreme court said:

"A railroad company may charge a higher price for carrying passengers when the fare is paid on the train than it does at its ticket offices, provided the price thus charged is reasonable and the fare charged on the train does not exceed the maximum allowed by law."

Railroad Co. v. Skillman, 39 O. S., 444.

This rule as expressed by the supreme court of this state is not necessarily in conflict with any of the decisions cited from other states. The Pennsylvania case rests upon the proposition that the *temporary* collection of excess fare is not a charge, the language of the court defining "charge" being as follows:

"The essence of the meaning is that it is something required, exacted, or taken from the travelers as compensation for the service rendered, and, of course, something taken permanently,—not taken temporarily, and returned. The purpose of the restriction in the charter is the regulation of the amount of fares, not of the mode of collection; the protection of the traveler from excessive demands, not interference with the time, place, or mode of payment. These are mere administrative details, which depend on varying circumstances, and are therefore left to the ordinary course of business management. We fail to see anything in the present regulation which can properly be treated as an excessive charge, within the prohibition of the charter."

Commenting on this view of the Pennsylvania court, a majority of the supreme court of South Carolina well say:

"The reasoning of the court in the case last mentioned is fallacious in making the price, or something required, exacted or taken from the traveler, to depend upon the fact that it is taken permanently, not temporarily and returned. In order to show that this is not the correct test, it is only necessary to say that if the rebate check had provided that the excess fare should be refunded after a certain number of days, months or years, it would at once appear that the railroad company had received more than three cents per mile for every mile traveled, as the use of the money is a valuable consideration. If the railroad company had adopted a rule that a passenger should not be permitted to board its train or check his baggage until he exhibited a ticket, it might well be contended that this was a mere regulation; but not so, when the passenger is required to pay more money for his transportation than is permitted by the statute, even though under certain circumstances he may have the excess charges refunded to him."

Fullmer v. Railway Co., 67 S. C. 269.

This view of the law seems to me to be sound. The one consideration required of a railroad passenger in Ohio on distances of more than five miles, is that he pay two cents per mile. This consideration is appreciably increased when, in addition to such payment he is required to secure a receipt for an excess payment, preserve the same, take it to an agent of the company within a short time and secure the refunder, accomplishing after all this, only what the law gives him originally, to-wit, transportation for two cents per mile.



Both upon the weight of authority, therefore, and upon what I consider the sounder reasoning, I am of the opinion that a railroad company has not the power to enforce the regulation outlined in your communication.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### BILL OF LADING — AUTHORITY OF RAILROAD COMMISSION AS TO.

Railroad commission may determine proper conditions which may be imposed by bill of lading issued by railroad company for transportation of freight wholly within state; railroad company entitled to notice and hearing.

October 27, 1906.

*To the Railroad Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—I have yours of October 24, 1906, advising me that shippers on certain railroads in this State complain that bills of lading issued by these railroads “are unreasonable and unfair in that they seek to limit unduly the liability or responsibility of carriers.” You inquire whether it is within the province of your commission to “determine and specify by order to the carriers of Ohio what conditions a bill of lading may bear, when issued, as a receipt for freight to be transported wholly within the State of Ohio, also whether or not such authority should be exercised by the making of a general rule to carriers within this State and whether or not a hearing should first be had so that the carriers might be given an opportunity to be heard.

Section 14 of the act creating your commission, 98 O. L. 350, provides that whenever upon an investigation made your commission shall find any regulation or practice whatsoever affecting the transportation of persons or property or any service in connection therewith unreasonable it shall determine and by order fix a reasonable regulation, practice or service to be observed and followed in the future.

In my opinion this section applies to a case where a railroad issues such bills of lading as those described in your communication. I advise you further that in consideration of such complaint the provisions of section 12 of the railroad commission act relating to the notice required to be given to the railroad company govern, it must follow, therefore, that each company complained of has a right to be heard after such due notice as the law contemplates and that the commission cannot *ex parte* issue a general order or rule governing all the railroad companies affected.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



## (To Officers of the Various State Institutions.)

VEHICLE TAX—MUNICIPAL—PROPERTY OF STATE NOT  
SUBJECT TO.

Property of state of Ohio not subject to vehicle tax imposed by municipal corporation.

October 1st, 1906.

MR. CHARLES FLUMERFELT, *Ohio School for the Blind, Columbus, Ohio.*

DEAR SIR:—In my opinion the city of Columbus is without power to assess and collect a vehicle tax upon carriages owned by the state of Ohio. The ordinance imposing a vehicle tax is under authority of section 7, sub-section 9 of the municipal code, authorizing municipalities to license and regulate the use of the streets by persons who use vehicles or solicit or transact business thereon.

Of course the power of a municipal corporation to impose a vehicle tax proceeds from the state itself. There is no doubt of the power of the state to authorize its own officers or its municipal corporations or other instrumentalities of its creation to impose a tax upon its property or prescribe conditions upon which it may be used. In order to do this, however, express provisions to that end must be enacted.

"The state is not bound by the terms of a general statute, unless it be so expressly enacted." *State of Ohio v. Board of Public Works*, 36 O. S. 409.

In commenting upon this principle, the supreme court said in *State v. Railway Company*, 37 O. S. 176,

"This rule is of special force where any of the prerogatives, rights, or interests of the state are sought to be divested. \* \* \* The principle is well established, and is indispensable to the authority of the public right. The general business of the legislative power is to establish laws for individuals, not for the state."

"The state can, no doubt, through its legislature, subject itself to the provisions of a general law, but it must be by express enactment." *State v. Cappeller*, 39 O. S., 213.

That the state has not subjected itself to the provisions of any ordinance enacted pursuant to the authority conferred by the statute mentioned, it is only necessary to refer to the several appropriation bills passed by the general assembly. In none of these does it appear that any funds have been set apart for this purpose, and the trustees of your institution have no power to pay any license imposed upon the use of vehicles owned by the state. Inasmuch as the state has lawfully furnished vehicles and provided for their use and has not provided for the payment of any license for such use, it seems clear that the general assembly relied upon the general rule above stated, that is, that in the absence of an express provision, the state does not subject itself to a general law. Inasmuch as no funds have been appropriated out of which you can pay the license fee mentioned, you are without authority so to do; and inasmuch as the general assembly has not expressly provided that the state is bound by the terms of the statute mentioned, there is no obligation upon the part of the state to pay such license fees out of future appropriations.

I am of the opinion, therefore, that vehicles owned by the state are not subject to any ordinance passed pursuant to section 7 of the municipal code.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

BOYS' INDUSTRIAL SCHOOL—COMPENSATION OF OFFICER FOR  
CONVEYING YOUTH TO.

Officer conveying youth to boys' industrial school entitled to actual expense and mileage of five cents per mile by way of compensation.

June 1st, 1906.

HON. C. B. ADAMS, *Supt. Boys' Industrial School, Lancaster, Ohio.*

DEAR SIR:—Your letter of recent date relative to the compensation and expenses allowed officers for conveying a youth to the Boys' Industrial School, is received.

In reply I beg leave to say that section 759, as amended 97 O. L., 319, provides that:

"The expenses incurred in the transportation of a youth to the Boys' Industrial School, shall be paid by the county from which he is committed, to the officer delivering him, upon the presentation of his sworn statement of accounts of such expense, *and such officer shall receive as compensation*, five cents per mile each way from his home to the Boys' Industrial School by the nearest route."

This section, as amended, provides first, for the payment of the *expenses* incurred in the transportation of a youth to the Boys' Industrial School, and second, the *compensation* to the officer conveying him. The expenses are to be those actually incurred in the transportation, while the compensation is fixed at five cents per mile each way. The officer is therefore entitled to receive payment out of the county treasury for the actual expenses incurred in transporting the youth to the Boys' Industrial School, and also mileage at the rate of five cents a mile each way.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

OHIO INSTITUTION FOR THE EDUCATION OF THE DEAF AND  
DUMB—EXPENSE OF PUPIL.

Expense of oculist for treatment of pupil charged to pupil or to county from which he came.

January 22d, 1906.

HON. J. W. JONES, *Supt., Ohio Institution for the Education of Deaf, etc., Columbus, Ohio.*

DEAR SIR:—In answer to yours of January 9th, I beg to say that in my opinion the expense for the special work of an oculist for treatment of a pupil in the Ohio institution for the education of the deaf and dumb, is such an incidental expense as is provided for under Sections 631 and 632 of the Revised Statutes and should be charged to the pupil or to the county from which he comes.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## PUBLIC BUILDINGS—CONTRACTORS' BOND.

Bond submitted with bid for contract for construction of public building should cover obligation of contract when entered into, as well as obligation to enter into contract in accordance with bid; certified check may not be accepted in lieu of bond.

December 21, 1906.

*To the Board of Trustees of the Ohio Institution for the Education of the Deaf and Dumb, Columbus, Ohio.*

GENTLEMEN:—Under date of December 19th, I received a communication from Mr. C. E. Richards, of the firm of Richards, McCarty & Bulford, Architects, submitting the following inquiries:

1. In advertising for letting of a state building, what percentage of the proposal should the bond called for in this advertisement equal?
2. Is it legal to require a certified check to be submitted with the bid in lieu of the bond?
3. Should the bond submitted with the bid be a permanent bond or just temporary bond to be taken up and a new bond executed if contract is entered into?

Section 202 and succeeding sections of the Revised Statutes only authorize the Attorney General to advise State officers, heads of State departments, members of the General Assembly and prosecuting attorneys in matters in which the State is either a party or directly interested. I regret that by reason of this limitation I am unable to advise Mr. Richards in this matter. I presume, however, the information requested in Mr. Richards' letter is on your behalf and I therefore address this communication to you.

In answer to the first inquiry I beg leave to say Section 785 of the Revised Statutes which fixes the conditions for the awarding of contracts for public buildings, provides that

“ \* \* \* no proposals shall be considered unless accompanied by a bond of the proposer, with sufficient sureties, conditioned that if the proposal be accepted, the party proposing will enter into a proper contract, and faithfully perform his or their contract or contracts, in accordance with said proposal, and the plan or plans, specifications, and descriptions, which are made a part of such contract or contracts:”

Nothing is said in the above provision as to the amount of the bond. It is a general custom, however, in the letting of contracts for public buildings under this section to require the bond to be 50% of the bid submitted.

Second. Certified checks should neither be required nor accepted in lieu of the bond authorized in the provision above quoted.

Third. The bond required, to accompany the bid or bids of the proposer under the provision of Section 785 as above quoted, must contain the condition

“ \* \* \* that if the proposal be accepted, the party proposing will enter into proper contract, and faithfully perform his or their contract or contracts in accordance with said proposal, and the plan or plans, specifications, and descriptions, which are made a part of such contract or contracts:”



The bond is therefore a permanent bond and no other bond is required from the contractor should his bid or proposal be accepted.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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### OHIO HOSPITAL FOR EPILEPTICS—RECORDS OF.

Records of the Ohio hospital for epileptics are open for inspection by citizens of the state.

April 26, 1906.

DR. W. H. PRITCHARD, *Superintendent, Ohio Hospital for Epileptics, Gallipolis, Ohio.*

DEAR SIR:—I have yours of April 23, 1906, requesting my opinion upon the right of a citizen of this state to a list of the patients committed to the institution of which you are superintendent.

I find no statute specifically requiring the keeping of such a record as the correspondence submitted to me would indicate is kept, but whatever records are kept for the institution are comprised within Section 6027 of the Revised Statutes which reads as follows:

“All books, papers, vouchers, and contracts, pertaining to any of the benevolent institutions of the state, are the property of the state, and shall be carefully preserved.”

There appears to be no provision requiring or authorizing the custodian of these papers to make copies thereof and, in my opinion, you have no such duty.

The right of any citizen, however, to inspect the records is a different proposition. The records belong to the state and there appears no reason sufficient in law for not treating these records for the purposes of inspection as other records are treated. It has been held in this state that:

“Public records are the people’s records. The officials in whose custody they happen to be are mere trustees for the people, any one of whom may inspect such records at any time, subject only to the limitations that such inspection does not endanger the safety of the record, or reasonably interfere with the discharge of the duties of the officer having custody of the same.”

*Wells v. Lewis*, 12 O. D. 171.

The suggestion that improper motives may inspire one seeking to exercise this right does not affect the question. Where the right exists the motive cannot be inquired into. *Cincinnati Volksblatt Co., v. Hoffmeister*, 62 O. S., 189. I advise therefore that you permit any one desiring so to do to inspect any of the records of your institution under such regulations as you may find necessary to adopt to protect the same and at such times as will not unreasonably interfere with the official use thereof.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## RECESS APPOINTMENTS — CONFIRMATION BY SENATE.

Effect of failure of senate to confirm appointment by governor during recess of general assembly to fill vacancy in board of managers of Ohio Agricultural experiment station; appointee holds until successor qualified; no vacancy in office because of such failure to confirm.

March 31st, 1906.

HON. CHARLES E. THORNE, *Ohio Agricultural Experiment Station, Wooster, Ohio.*

DEAR SIR:— Your letter of March 29th, containing an inquiry as to the effect of the failure of the senate to confirm certain recess appointments by Governor Herrick, is before me. I assume that these appointments were made to fill vacancies in the offices.

Section 12 of the Revised Statutes is as follows:

“In case of a vacancy in any office filled by appointment of the governor, by and with the advice of the senate, occurring by expiration of term or otherwise, when the senate is in session, the governor shall appoint a person to fill such vacancy, and forthwith report such appointment to the senate; and when the senate is not in session, and no appointment has been made and confirmed, in anticipation of such vacancy the governor shall fill the vacancy and report the appointment to the next session of the senate; and if the senate advise and consent to the same, the person so appointed shall hold the office for the full term; and if the senate do not so advise and consent, a new appointment shall be made.”

Governor Herrick was authorized under this section to make appointments to fill vacancies. The term for which the appointees should hold office was uncertain at the time of appointment, being dependent, so some extent, upon the subsequent action of the senate. If they should confirm the appointment, the appointees would hold office for the full term, but upon their failure to advise and consent, the statute provides that a new appointment shall be made. When such appointment has been made and confirmed by the senate, the new appointee takes office and the term of the appointees who were not confirmed by the senate thereupon ends.

The wording of the statute is not clear but it seems to indicate that the condition subsequent which determines the office, is the appointment of a successor rather than the failure of the senate to consent to an appointment. The failure to consent is a negative act which makes it the duty of the governor to perform the positive act of appointing a successor. The senate is nowhere given the summary power of removal. Section 12a governing the removal of appointive officers for inefficiency, etc., makes such removal in every case dependent upon the initiative of the governor. Any doubt as to the proper construction of Section 12 is removed by Section 8 of the statutes which is as follows:

“Any person holding an office or public trust shall continue therein until his successor is elected or appointed and qualified, unless it is otherwise provided in the constitution or laws.”

Section 12 contains no provision excepting officers appointed by the governor from the operation of the general rule prescribed by section 8.

Section 12 quoted above refers to vacancies in *any office* filled by appoint-



ment of the governor by and with the advice and consent of the senate. The constitution, Article VII, Section 3, expressly provides that the governor may fill vacancies that may occur in certain of such offices until a successor to his appointee shall be "confirmed and qualified." The legislature would therefore, be without power to provide that the term of appointees to the offices referred to in Section 3 should cease on failure of the senate to confirm. By construing Section 12 to mean that the term of the appointee ceases when a new appointment has been made and confirmed, the statute is brought into harmony with the constitutional provision and may operate equally on all appointive offices.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### OHIO AGRICULTURAL EXPERIMENT STATION—LOSS OF FUNDS OF, BY FAILURE OF BANK.

Powers and duties of board of managers of Ohio agricultural experiment station regarding liquidation of obligations created by failure of bank containing funds of board.

August 1st, 1906.

HON. C. E. THORNE, *Director of Ohio Agricultural Experiment Station, Wooster, Ohio.*

DEAR SIR:—In response to your letter of July 30th, 1906, I beg to answer your several inquiries as follows:

1. There can be no question that it is the duty of your board to pay to the holders of your checks the proportionate amount received on account thereof from the receiver of the bank.

2. Inasmuch as the payees of the checks received such checks on July 6th, 1904, and on August 31st, 1904, and inasmuch as the bank did not close its doors until November 23d, 1904, there is no legal or moral obligation upon the board to pay any further sum to the payees of such checks than that paid by the bank. An unreasonable time had elapsed between the receipt of the checks and the closing of the bank doors so that the money represented by checks on November 23d, 1904, should properly be considered as the deposit of the payees of the check rather than the deposit of the experiment station.

3. I know of no reason why the national law deposit, or so much thereof as may be lacking by virtue of the failure of the bank, cannot be made good by the proceeds of sale of farm products.

4. Without an opportunity to examine the bond of the surety company I am inclined to the opinion that the surety company has only bound itself to pay in case the bursar of the experiment station improperly pays out or converts to his own use the funds of the station. The bond of the surety company should not be accepted unless such bond expressly provides for the deposit of the funds of the station in certain specified banks.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



OHIO AGRICULTURAL EXPERIMENT STATION — LOSS OF FUNDS OF,  
BY FAILURE OF BANK — LIABILITIES OF SURETIES  
OF FINANCIAL OFFICER MAKING DEPOSIT.

Sureties on bond of financial officer for Ohio agricultural experiment station not liable for loss arising from failure of bank in which funds of board of managers deposited by said officer.

August 8th, 1906.

HON. CHARLES E. THORNE, *Director, Ohio Agricultural Experimental Station, Wooster, Ohio.*

DEAR SIR:—In response to yours of August 7th, I beg to say that I do not know that there is any custom or precedent governing the question asked by you. Unless the deposit of public money, however is absolutely prohibited by law I do not think the financial officer's sureties would be liable if he, in good faith, deposited the money with the consent or knowledge of his superior officer. I think, therefore, that the bond should distinctly provide a liability arising from the failure of the bank.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

GIRLS' INDUSTRIAL HOME — TERM OF OFFICE OF TRUSTEE.

Trustees of girls' industrial home serve until their successors are appointed and confirmed.

April 4th, 1906.

HON. T. F. DYE, *Superintendent of Girls' Industrial Home, Delaware, Ohio.*

DEAR SIR:—In your letter of April 2d you inquire whether a member of the board of trustees of The Girls' Industrial Home whose term expired April 1st, 1906, can serve until his successor is appointed. I am of the opinion that he continues in office until his successor is appointed and confirmed.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

OHIO SOLDIERS' AND SAILORS' HOME — INSANE INMATE — AUTHORITY TO COMMIT TO STATE HOSPITAL FOR INSANE.

Probate judge of Erie county has authority to commit to state hospital for insane inmates of the Ohio soldiers' and sailors' home.

March 22d, 1906.

HON. A. B. HOWARD, *Supt., The Cleveland State Hospital, Cleveland, Ohio.*

DEAR SIR:—Your communication relative to the authority of the probate judge of Erie county to commit inmates of the Ohio soldiers' and sailors' home to the state hospitals for insane, is received.

In reply I beg leave to say that Sections (674-8), (674-9), and (674-10), of the Revised Statutes of Ohio provide the procedure by which inmates of the Ohio soldiers' and sailors' home who become insane shall be committed to the state hospitals for insane persons.

Under the above sections the probate judge of the county in which the home is located, when a proper affidavit is filed, is empowered and authorized to hear and determine the insanity of such inmate, as is provided for in accordance with Title 5, Chapter 9 of the Revised Statutes of Ohio; and if the probate judge shall determine, upon such examination, that any inmate of the Ohio soldiers' and sailors' home is insane, said inmate shall be enumerated in the quota of persons entitled to admission into the asylum for the insane from the county in which said inmate was a resident at the time of entering said home.

These sections further provide that in order to carry out the above provisions the probate judge of the county in which said home is located *shall have the same authority to act* and receive, and order paid the same fees and costs as the probate judge would have in the county in which such inmate was a resident before entering said home.

These provisions would clearly indicate that it is proper for the probate judge of Erie county to determine the question of sanity or insanity, and that the inmates committed to your institution under such proceedings should be received by you, and said inmates should be enumerated in the quota of persons entitled to admission into your institution from the counties in which said inmates resided at the time of entering said home; that all claims for clothing, provided for by law, should be charged by you to the counties in which said inmates resided at the time of their admission into the Ohio soldiers' and sailors' home.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### LABOR OF INMATES AND EMPLOYES OF STATE HOSPITAL.

Labor performed by employes and inmates of state hospital for the insane on contract with third party for improvement, such labor not being provided for in specifications, should be charged for at market price, not cost price.

July 25, 1906.

HON. W. P. MAGRUDER, *Mechanical Engineer for Trustees of Dayton State Hospital, Columbus, Ohio.*

DEAR SIR:—Your letter of July 21st presents substantially the following state of facts: A contract was let for a public improvement at the Dayton State Hospital. During the progress of the work the contractor requested the engineer of the hospital to do certain lathe and forge work which was a part of the work contracted for. This work was done by employes or inmates of the institution. You desire to know whether such work should be charged for at the market price for such labor, estimated at 60 cents, or whether the institution can only charge the amount which such labor actually cost the institution, estimated at 7 cents per hour?

Bidders for contracts for improvements at public institutions presumably base their bids on the cost of labor in the outside market, unless it is specified

that the labor of inmates may be used to some extent. If, by arrangement with the superintendent, the successful bidder is permitted to use the skilled labor of inmates at a nominal expense his profits will be greatly increased. There could be no fair competition for work at public institutions if such a practice were permitted, since it is plain that a contractor having an understanding with the superintendent that he could utilize the labor of inmates, would have an unconscionable advantage over other bidders.

If a public improvement at a state institution is such that the labor of inmates can be utilized to any material extent the advertisement for bids should specify just what work will be done in that way. Where it is not specified in advance that certain labor and material shall be furnished by the institution I am of the opinion that such labor and material should be charged for at the market price for labor of equal efficiency.

The same rule should apply in cases where a contractor neglects to fully perform his contract and the work is completed by the labor of inmates of the institution.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### ABSTRACT OF TITLE TO CERTAIN REAL PROPERTY.

December 6, 1906.

DR. A. F. SHEPHERD, *Dayton State Hospital, Dayton, Ohio.*

DEAR SIR:—In accordance with your request, I have examined the abstract of title to a tract of land, 33 x 200 feet, the property of George Behr, situated on the Dayton and Wilmington pike in Van Buren township, Montgomery County.

In my opinion, the suit shown at Section 17 could in no way affect the title of a purchaser from George Behr, unless pursued to judgment against Behr prior to his conveyance of the property. The action being personal in its nature, the court could in no way assume jurisdiction of the real property of the defendant.

Taxes for the year 1906, amounting to \$4.66, are unpaid and a lien.

No examination has been made in the circuit or district courts of the United States for pending suits or judgments.

Subject to the exceptions above noted, I am of the opinion that the abstract shows a good and perfect title in George Behr to the premises, as described in the deed shown at Section 7, and in the caption of the abstract.

I beg to advise your board that if in their opinion the purchase of this tract is advisable, there can be no legal objection thereto.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### PAROLE—CHANGE IN MINIMUM PENALTY.

Act changing minimum penalty for burglary from five years to one year renders prisoner sentenced under law in original form eligible to parole after having served one year.



March 7, 1906.

HON. FRANK COOK, *Secretary Board of Managers, Ohio Penitentiary, Columbus, Ohio.*

DEAR SIR:—Your question is, whether the recent act of the legislature which changes the minimum penalty for burglary in certain cases from five years to one, operates to make prisoners sentenced under a former law eligible to apply for a parole after having served one year of their sentence.

That the legislature has the power under the constitution to pass laws creating in the board of managers the power to parole prisoners under sentence at the time of the passage of the act is settled in *State v. Peters*, 43 O. S., 629, 650.

The law authorizing parole of prisoners is not an interference by the legislature with the function of the judiciary. The parole of a prisoner does not abrogate or interfere with the judgment of the court which sentenced him. The state possesses the power to provide regulations for the safe keeping, proper punishment and control of prisoners, and that power is properly exercised through the legislative department.

Neither is the exercise of the power of parole an interference with the power vested in the governor to grant reprieves, commutations and pardons. A parole is none of these. While on parole the convict remains in the legal custody and under the control of the board, subject at any time to be taken back within the enclosure of the prison.

Such a law is not unconstitutional as retroactive for it does not interfere with the vested rights of any individual. It is not *ex post facto* for it merely makes possible a mitigation of the punishment of the criminal.

In *Re Kline*, 70 O. S., 25, decided that the repeal of a statute defining a crime and prescribing the punishment does not in any respect vacate or modify judgments rendered while the statute was in force. A statute purporting to do this would clearly interfere with the judicial power. But as pointed out above, the exercise of the power to parole is not an interference with the judgment of the court and may therefore operate on prisoners sentenced before the passage of the act.

The *Kline* case affirms the prior holding in the *Peters* case, that the statute conferring the power of parole is a mere "disciplinary regulation," and decides that as such it is subject to modification or repeal without violation of any right of the prisoner.

The application of this decision to the statute changing the penalty for burglary in certain cases to one year is to decide that the term of imprisonment of prisoners sentenced to five years imprisonment under the old law is not changed by the present law.

That the legislature could by appropriate legislation give the board power to parole prisoners sentenced for burglary under the old law, who had served but a single year of their sentence, is in view of the above decisions not open to doubt. It only remains to be determined then whether the legislature has expressed an intention to give the board this power.

In the first place does Section (7388-9) R. S., express an intention to limit the class of those eligible to parole to those who had served, or who might thereafter serve the *minimum term provided by law at the time they were sentenced*, or does it express an intention to admit within this class those who might serve a term thereafter fixed by law as the minimum penalty for the offence of which they were convicted? In the latter case the passage of a law changing the minimum term for any crime would, in itself, be sufficient to affect the power of the board to parole prisoners convicted of that crime.

Which interpretation of Section (7388-9) is most consistent with its terms

and best adapted to effect the main purpose of the act? Clearly the purpose of the legislature in limiting the class eligible to parole was to prevent the board of managers from releasing criminals who had not served the term fixed by the legislature as the shortest commensurate with the crime. It was to prevent the absolute substitution of the discretion of the board for the judgment of the legislature. It is equally clear that the legislature intended that after a convict had served such minimum term his further imprisonment should depend upon and be subject to the action of the board.

The present legislature by changing the minimum term of imprisonment for burglary from five years to one has clearly manifested its belief that in many cases one year is a sufficient punishment for this crime. The judgment of the legislature as to the necessary minimum penalty has changed. Assuming that the liberal construction of Section (7388-9) is correct, the number of prisoners who may be paroled by the board may be increased, but there has been no enlargement of the discretion of the board. The class of convicts subject to the action of the board remains the same, i. e., those who have served a minimum term fixed by the legislature.

The evil which the recent act was intended to prevent—the too severe punishment of certain persons convicted of burglary—will be more completely remedied by extending to the board the same power as to convicts now in the penitentiary which it will undoubtedly have as to convicts sentenced hereafter. That it is in accordance with the intention of the legislature that the present act should have such operation is evident. The change in the law must have resulted from a belief that many prisoners now serving their sentences had been too severely punished, and if by its action the legislature could remedy existing wrongs as well as prevent such wrongs in the future, it must be presumed that they intended to do so.

The language of the statute not only permits such liberal construction but seems, in itself, to suggest it. The material portion of the act is as follows:

“That said board of managers shall have power to establish rules and regulations under which any prisoner who is now or hereafter may be imprisoned under a sentence other than for murder in the first or second degree, who may have served a minimum term provided by law for the crime for which he was convicted (and who has not previously been convicted) of felony, and served a term in a penal institution,  
\* \* \* may be allowed to go upon parole.”

If it had been intended to limit the class subject to parole to those who should thereafter serve the minimum term provided by laws in force at that time it seems almost certain that language clearly suggesting such intention would have been used. If the effect of future changes in terms of imprisonment was not in the mind of the legislature at all the natural language would have been “the minimum term.” There could not have been more than one minimum term for any one offence provided by law at the time of the passage of the act. The use of the indefinite article “a” indicates that the legislature had in mind different minimum terms, i. e., minimum terms under existing laws and minimum terms under laws to be passed in the future.

The prisoner convicted of burglary who has served one year of his sentence at the present time has “served a minimum term provided by law for the crime for which he was convicted.”

For the reasons above stated I am of the opinion that the recent act of the legislature, which changes the minimum penalty for burglary from five years to one year in certain cases, operates to make prisoners sentenced under the



former law for offenses for which the minimum term is now one year, eligible to apply for a parole after having served one year of their sentence.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### PAROLE—LIFE SENTENCE.

Prisoner serving life sentence under conviction of murder in first degree eligible to parole only upon proof of innocence established beyond a reasonable doubt.

November 26, 1906.

HON. O. B. GOULD, *Warden Ohio Penitentiary, Columbus, Ohio.*

DEAR SIR:—Your communication inquiring whether or not a prisoner serving a life sentence in the Ohio Penitentiary is eligible to parole, is received. In reply I beg leave to say that Section 6808, Revised Statutes, provides,

“no person convicted of murder in the first degree shall be recommended for pardon by the board of pardons, or for parole by the board of managers of the penitentiary, except upon proof of innocence established beyond a reasonable doubt.”

Under this provision all prisoners convicted of murder in the first degree and serving a life sentence are eligible to parole on condition that their innocence is established beyond a reasonable doubt.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### BREACH OF CONTRACT FOR INSTALLATION OF BOILER—RIGHTS AND DUTIES OF MANAGERS OF OHIO STATE REFORMATORY AS TO.

March 14, 1906.

HON. FRED S. MARQUIS, *Secretary Board of Managers, Ohio State Reformatory, Mansfield, Ohio.*

DEAR SIR:—Your letter of March 10th, in reference to a contract between the board of managers of the Ohio State Reformatory and the Atlas Engine Works, has been given careful consideration.

From the facts stated in your letter it appears that the contractor has not only failed to prosecute the work with reasonable promptness but also that the two boilers already completed fail to comply with the specifications as to efficiency; that tests have been made which demonstrate their inefficiency; that the contractor has failed to show that they complied with the specifications by another test although opportunity for such test has been afforded.

What action it will be best for you to take depends to some extent upon the practical question whether you can repair the old boilers so as to continue their use until new boilers can be installed by another company. If this can be done and the boilers already installed are so unsatisfactory that it will suit you



better to have them replaced than to use them in connection with the two boilers yet to be constructed, written notice should be given by the mechanical engineer to the company to take down its work and remove the same as "unsound, improper and failing to conform to the specifications in that they do not, and upon test failed to develop 265 horse power each, etc." detailing their defects. (Article 4 of contract.)

The mechanical engineer should also file a written certificate with the board of managers stating that the neglect of the contractor to proceed with the work and the failure of the work as done to comply with the specifications (specifying defects) justify the board in terminating the employment of the contractor and employing others to complete the work. (Article 5.)

Written notice from the board should also be served upon the contractor referring to the receipt of the certificate of the mechanical engineer and stating that unless the boilers are tested and proved to comply with the specifications within five days, the board will make a requisition on the contractor to remove the boilers, or so much thereof as the board deems advisable, and to furnish such specified force and such specified material as the board deems necessary to the fulfillment of the contract; stating also that unless such requisition is complied with within 15 days the board will terminate the employment of the contractor, tear down such part of the work as the mechanical engineer decides must be removed in order to permit the construction of boilers which will comply with the specifications, and themselves furnish or employ another contractor or contractors to furnish this proposed labor and material; stating also that the present contractor will be held responsible for all loss sustained by reason of the default of such contractor and for all damages liquidated or unliquidated, to which the board is entitled under the terms of the contract. 792 R. S., Sec. 5 of contract. If test is not made within five days the requisition should be made as outlined above.

Before serving any notice upon the contractor it would be advisable for the board to lay the entire matter before the governor, auditor of state and secretary of state in order to make certain that they will approve whatever action the board decides to take. Section 792 R. S., prescribes the necessary procedure in cases like the one before us. By referring to this statute you will see that the written consent of the above officers is a prerequisite to the right of the board to remove improper materials and employ an additional force. After such written consent has been obtained and 15 days after the service of the requisition the board may proceed to make a new contract with another company for the completion of the work.

The board may, if it prefers, utilize the boilers already built, and upon notice as indicated above, may employ another contractor to put in the two additional boilers, holding the present contractor responsible for damages sustained by the board of managers by reason of the unexcused delay of the contractor and by reason of the difference in efficiency between the boilers actually constructed and those called for by the specifications. In each case the contract for completion of the work must be made in the manner prescribed by Section (782-5) R. S.

The board is entitled to recover \$10.00 for each day of delay not caused by the board's own neglect unless such delay was excused by reason of subsequent negotiations extending the time of completion. The board is also entitled to recover as damages the difference between the necessary cost of installing the boilers in accordance with the specifications and the contract price with the Atlas Engine Company. The amount of such damages cannot of course be ascertained until you have installed the new boilers. No action in the courts should be taken by you before that time.

If this letter does not give you all the information you desire, please advise me.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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#### RECESS APPOINTMENT—FAILURE OF SENATE TO CONFIRM.

Failure of senate to confirm appointment during recess of general assembly by governor to fill vacancy in board of managers of Ohio state reformatory does not terminate tenure of office of incumbent so appointed; such incumbent may hold until his successor is confirmed and qualified.

March 26, 1906.

HON. FRED S. MARQUIS, *Secretary Board of Managers, Ohio State Reformatory, Mansfield, Ohio.*

DEAR SIR:—Your letter of March 24th states that Messrs. H. F. Coates, Judson Vincent and J. W. Dover were appointed members of the board of managers of the Ohio State Reformatory by Governor Herrick during the interim between the present session of the legislature and the one last preceding it; that the senate has recently voted not to confirm their appointment. You ask whether or not there is a vacancy created by the act of the senate or whether these gentlemen are still entitled to serve until their successors have been duly confirmed and qualified?

Article VII, Sections 2 and 3 of the constitution are as follows:

Sec. 2. "The directors of the penitentiary shall be appointed or elected in such manner as the general assembly may direct; and the trustees of the benevolent, and other state institutions, now elected by the general assembly, and of such other state institutions, as may be hereafter created, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by yeas and nays, and entered upon the journal of the senate."

Sec. 3. "The governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the general assembly, and, until a successor to his appointee shall be confirmed and qualified."

The above appointees therefore are not displaced by reason of the failure of the senate to confirm them.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*



RECESS APPOINTMENT—EFFECT OF RECONSIDERATION BY  
SENATE OF CONFIRMATION OF.

April 2, 1906.

HON. H. F. COATES, *Member Board of Managers, Ohio State Reformatory, Alliance, Ohio.*

DEAR SIR:—I have before me your letter of March 30th with reference to the action of the senate in reconsidering its confirmation of certain appointments. As I have already advised several members of your board, the failure of the senate to confirm does not of itself end the tenure of the present appointees.

The question of the right of the senate to reconsider within the time permitted by its rules, the confirmation once made, will only arise in case a new appointment to the office is hereafter made and confirmed by the senate. From the facts before me at this time I would not be warranted in expressing an opinion as to the effect of the reconsideration of its action by the senate.

Very truly your,

WADE H. ELLIS,  
*Attorney General.*

RECESS APPOINTMENT—EFFECT OF RECONSIDERATION BY  
SENATE OF CONFIRMATION OF.

April 2, 1906.

HON. J. W. DOVER, *Member Board of Managers, Ohio State Reformatory, McConellsville, Ohio.*

DEAR SIR:—In your letter of March 28th you ask whether the senate has a right to reconsider the confirmation of your appointment as one of the board of managers of the Ohio State Reformatory. As I have already advised several members of your board, the failure of the senate to confirm does not of itself end the tenure of the present appointees.

The question of the right of the senate to reconsider, within the time permitted by its rules, a confirmation once made, will only arise in case a new appointment to your office is hereafter made and confirmed by the senate. From the facts before me at this time I would not be warranted in expressing an opinion as to the effect of the reconsideration of its action by the senate.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

OHIO STATE REFORMATORY—SALARY OF SUPERINTENDENT OF.

Whether or not provision of the state salary law, 98 O. L. 365, fixing salary of superintendent of Ohio state reformatory, affects compensation of the then incumbent of said office, depends upon whether said incumbent was employed for a fixed term or for an indefinite period.

April 13, 1906.

HON. FRED S. MARQUIS, *Secretary Board of Managers, Ohio State Reformatory, Mansfield, Ohio.*

DEAR SIR:—Your letter of April 4th requests my opinion as to the effect of the Ervin law upon the salary of the superintendent of the Ohio State Reformatory.



Section (7388-20) R. S., provides for the appointment by the board of managers of the reformatory of a superintendent "who shall hold his office during the pleasure of the board, subject to removal for cause after opportunity shall have been given him to be heard upon written charges."

Section (7388-22) provides that,

"The superintendent shall receive an annual salary to be fixed by the board of managers, payable by the treasurer of state, on the warrant of the auditor, in equal monthly installments; and shall be furnished the necessary fuel and provisions for himself and family under the direction of the board."

The Ervin law fixes the salary of the superintendent at \$2400.00 per annum, but it is provided in Section 4 that,

"This act shall take effect from and after its constitutional enactment, provided that it shall not operate to affect the compensation of any officer or employe named herein during his existing term, but shall operate during any lawful extension of such existing term."

The constitutional provision prohibiting changes in the salary of an officer during an existing term probably does not apply to officers appointed for an indefinite time subject to removal by the appointing power. (*State v. Massillon*, 24 O. C. C., 249; 2 C. C. N. S., 167; *Lexington v. Renick*, 105 Ky., 779.) But the policy of the legislature has been to extend to other officers and employes the protection afforded by the constitution to salaried officers having a definite term.

Section 126 of the municipal code, referring to "officers, clerks and employes," and Section 4 of the Ervin law, are examples of this policy.

An employe subject to removal by his employer has, strictly speaking, no "term of office"; but since the legislature expressly mentions employes, and prohibits changes in their "compensation" during an existing "term," it is evident that employes may have terms of employment within the meaning of the word as used in this statute. I am of the opinion that an employe has a term within the meaning of this statute in cases where there is an understanding between the employer and the employe that he shall serve for a definite term. If there be no such understanding, but the employe is appointed for an indefinite time, subject to removal at any time, he has no term of employment. If, therefore, it was understood by the board of managers and the superintendent of the Ohio State Reformatory at the time of his appointment or reappointment, that he should serve for a definite term, the Ervin law will not become operative as to him until the expiration of such term. If there was no such understanding he should be paid at the statutory rate from the date when the Ervin bill became a law.

You also ask whether the board of managers has the right under Section (7388-20) to increase or decrease the annual compensation of the superintendent at the beginning of a new fiscal year.

The legislature, by the recent law, has itself fixed the compensation of the superintendent of the reformatory, and no power remains in the board of managers to increase or decrease the compensation so fixed.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## CONTRACT FOR INSTALLATION OF BOILER—CHANGE IN.

July 6, 1906.

*Board of Managers Ohio State Reformatory, Mansfield, Ohio.*

GENTLEMEN:—You desire to know whether, in my opinion, you have the power to accept the proposal of the Atlas Engine Works, dated June 29th, 1906, in which said company proposes to install two 350 horse power boilers instead of the two 265 horse power boilers yet to be installed as required by the original contract.

The proposal involves no increase in cost beyond the amount fixed by the original contract. The company proposes to make this substitution because the two boilers installed have failed to meet the specifications as to horse power.

Section 786 R. S. provides in substance, that no change in the plans or specifications of any public improvement, the cost of which change will exceed \$1000, shall be made until the proposed change has received the approval of the Governor, Auditor and Secretary of State, etc.

“But all changes in the contract of less than \$1000 shall be by contracts in writing with full specifications and estimates and shall become a part of the original contract and be filed with the auditor of state with the original contract; but the amount of such change in the contract, plans, descriptions, bills of material or specifications less than \$1000 shall not in the aggregate increase the cost of construction of said institution, asylum, building or improvement more than 2½% of the original contract price or cost.”

I believe this statute authorizes you to accept in substance, the proposal of the Atlas Engine Works. The details of the proposed change should be set out in a supplementary contract in accordance with the provisions of the statute just quoted.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## RECESS APPOINTMENT—COMPENSATION OF APPOINTEES FAILING OF CONFIRMATION.

State salary law, 98 O. L. 365, regarding salary of members of board of managers of Ohio state reformatory, does not affect compensation of incumbents appointed during recess, failing of confirmation by senate, though such incumbents were “reappointed” by governor after adjournment of general assembly.

October 9, 1906.

HON. FRED S. MARQUIS, *Secretary Board of Managers, Ohio State Reformatory, Mansfield, O.*

DEAR SIR:—Your letter of October 5th states that two members of the Board of Managers of the Ohio State Reformatory were appointed by Governor Herrick while the Senate was not in session. I assume that these appointments were made to fill vacancies in the office. The appointments were reported to but were not confirmed by the Senate at its last session. Subsequent to the adjourn-



ment of the Senate the same gentlemen were re-appointed by Governor Harris. You desire to know whether they are entitled to the salary fixed by the act of April 2nd, 1906, (98 O. L. 365), which provides:

Sec. 4. "This act shall take effect from and after its constitutional enactment; provided it shall not operate to affect the compensation of any officer or employe named herein during his existing term, but shall operate during any lawful extension of any such existing term."

A similar prohibition is found in Article II, Section 20, of the constitution.

It therefore becomes material to determine whether the existing term of the officers in question began prior to the enactment of the law increasing the salary attached to their offices.

Article VII, section 3 of the constitution, referring to directors and trustees of state institutions is as follows:

"The governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the general assembly, and until the successor to his appointee shall be confirmed and qualified."

Clearly the term of office of an appointee, under this section, does not cease upon the failure of the Senate to confirm his appointment. By the express terms of the constitution he continues in office until his successor has been confirmed and qualified. In case the Senate does not advise and consent to the original appointment, it is the duty of the Governor to make a new appointment. (Sec. 12, R. S.) But if the Governor fails to make a new appointment while the Senate is in session, or if the Senate fails to confirm a new appointment actually made, the new appointee cannot be confirmed and qualified until the next session of the Senate.

The re-appointment by Governor Harris is, then, of no effect as a recess appointment since there was no vacancy at the time such re-appointment was made. As a new appointment, made because of the failure of the Senate to confirm the former appointment, it will not become effective until confirmed by the Senate. At the present time, therefore, the two members in question, being in office by virtue of an appointment made before the salary law was passed, for a term which has not yet expired, are not entitled to the increased salary.

It remains to be considered whether, in case their re-appointment should be confirmed by the Senate, they will be entitled to the increase after the date of confirmation.

The re-appointment by the Governor should be for the unexpired term. Section (7388-17) R. S. provides that,

"Whenever a vacancy occurs in the board of managers otherwise than by the expiration of the term of office of a manager, such vacancy shall be filled by appointment by the governor for the unexpired term by and with the advice and consent of the senate."

Other provisions of this statute show that it was the intention of the legislature that but one vacancy should arise by expiration of term in any one year.

It is plain then that no new term of office will be created by the confirmation of Governor Harris' appointments. The two members in question will be re-appointed to fill their own unexpired terms. It has been held that a person in office at the time a salary law is passed does not become entitled to the benefit



of the new law by resignation and re-appointment to fill the vacancy caused by his own resignation. (State v. Hudson Co., 44 N. J. L., 388.)

Nor is it within the power of the legislature to evade the constitutional prohibition by rejecting a recess appointment made before the salary law was passed and then confirming a new appointment of the same official for the unexpired term.

I am, therefore, of the opinion that the appointees in question will not be entitled to compensation under the new law.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### GUARDIAN — OF INMATE OF SOLDIERS' HOME — AUTHORITY TO APPOINT.

Probate court of Erie county may appoint non-resident of said county as guardian of incompetent inmate of state soldiers' home.

September 27, 1906.

GENERAL J. W. R. KLINE, *Commandant State Soldiers' Home, Sandusky, Ohio.*

DEAR SIR:— Your letter of September 24th requests my opinion as to whether the probate court of Erie county has authority to appoint persons residing in other counties of the state to act as guardians of members of the Home who are citizens of Erie county, and who through age, imbecility or other causes are incapable of managing their own affairs.

Section 6304, R. S., declares that laws relating to guardians of minors shall be applicable to guardians of idiots, imbeciles and lunatics, except as otherwise provided. But there is no express requirement in the statutes that the guardians of either class shall be residents of the same county as their wards.

Clearly there is no vital objection to the selection of a non-resident guardian, since by the terms of Section 6267, R. S., a person appointed by will, by a father or mother of any child is "entitled to preference in appointment over all others without reference to his place of residence."

It is true that Section 6272, R. S., names removal from the county as one of the causes which justify the probate judge in removing a guardian from office, but the probate judge has absolute discretion in the matter. Both statutes impliedly recognize that there may be circumstances under which the disadvantage arising from non-residence may be more than counterbalanced by the personal qualifications of a particular appointee. Such circumstances, of course, exist before, as well as after appointment, and the probate judge should have the same power to exercise his discretion in making an appointment that he unquestionably has in making removals.

I am, therefore, of the opinion that your question should be answered in the affirmative.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## GARNISHMENT — STATE NOT SUBJECT TO.

State cannot be garnisheed for wages of employes.

June 8, 1906.

MR. THOMAS J. COLLINS, *Financial Officer, O. S. & S. O. Home, Xenia, Ohio.*

DEAR SIR:—In response to yours of June 1st, I beg to say that my predecessor rendered to the steward of the Ohio Hospital for Epileptics, an opinion as follows:

Columbus, Ohio, January 4, 1904.

H. C. BARNES, ESQ., *Steward Epileptic Hospital, Gallipolis, Ohio.*

MY DEAR SIR:—In response to your inquiry as to whether you should, as Steward of the Hospital for Epileptics pay any attention to cases in which the wages of employes of that institution are garnisheed, I beg to state that you should not recognize garnishee process. The State is a sovereign, and is not subject to be sued or to the process of garnishment. No person has a right to receipt for wages except the employes themselves.

This proposition is of universal application, and I do not deem it necessary to cite authorities upon the subject. (See, however, 8 Am. & Eng. Enc. of Law, page 1135, et. seq., where the subject is fully discussed.)

I am fully cognizant of the decision of the court in the case of Newark v. Funk, 15 O. S., 462, in which the court held that a municipality was not free from the process of garnishment. That case, however, does not militate in any particular against the principle above announced.

Very truly yours,

J. M. SHEETS,

*Attorney General.*

I beg to add that after the above opinion was rendered to the steward of the Ohio Hospital for Epileptics a creditor of one of the employes of that institution sued an employe and attempted to garnishee the steward for wages owing the employe. The steward did not respond to the proceedings and thereafter was sued by the creditor and judgment taken against him by default. I caused the action to be appealed to the court of common pleas and after a full hearing in that court it was determined that the wages of an employe of the state were not subject to garnishment and that the steward of a public institution was not obliged to respond to a writ of that kind.

The case mentioned was never reported and no further proceedings were had therein. I beg to advise therefore that, in my opinion, you, as an officer of the State, are not subject to proceedings in garnishment where the action primarily lies against and seeks to recover from an employe of the State.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## OHIO AND MIAMI UNIVERSITIES — RIGHTS OF, UNDER ACT DEFINING POLICY OF STATE, ETC.

Act in 98 O. L., 309, defining policy of state as to maintenance of universities, does not prohibit Ohio and Miami universities from giving such instruction in engineering as is usually given by non-technical colleges.

July 16, 1906.

DR. ALSTON ELLIS, *Athens, Ohio.*

DEAR SIR:—In reply to your letter of July 9th I beg to advise you that the provisions of H. B. No. 45 (98 O. L., 309) do not, in my opinion, prohibit Miami University or Ohio University from giving rudimentary instruction in electrical engineering as a part of the work of the department of physics in the college of liberal arts, nor from giving similar instruction in civil engineering in the department of mathematics.

The purpose of the act referred to, as I understand it, is to prevent Ohio and Miami universities from entering into competition with the engineering departments of the Ohio State University, in order that the state funds may hereafter be applied to the complete equipment of one institution for technical education rather than distributed among three competing institutions. It was not necessary to the accomplishment of this purpose to prohibit Miami or Ohio universities from continuing such technical instruction as is usually given by non-technical colleges as a part of courses leading to the degree of Bachelor of Arts. If I am right in holding that the ultimate purpose of the statute is to insure the economical expenditure of state funds then surely the statute should not be given a construction which would result in preventing two institutions, which are still maintained at the expense of the state as colleges of liberal arts, from giving such instruction as is usually considered a necessary part of the course of instruction in such institutions.

As to your second question, I am of the opinion, that the expense of courses of technical instruction which are prohibited by H. B. No. 45, cannot be defrayed out of any funds provided by law.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## COMPATIBILITY OF OFFICES.

Offices of prosecuting attorney and auditor-secretary of Ohio University compatible.

November 17, 1906.

HON. ISRAEL M. FOSTER, *Trustee Ohio University, Athens, Ohio.*

DEAR SIR:—Your communication under date of November 15th, inquiring whether or not there is any prohibition against one holding the office of prosecuting attorney and at the same time being auditor-secretary of the Ohio University, is received.

In reply I beg leave to say the duties of the two offices are not incompatible, and I am of the opinion that the same person may hold both offices.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



( To Members of the General Assembly.)

SPECIAL RELIEF BILLS.

Special relief bills are unconstitutional.

January 4, 1906.

HON. FRANKLIN BRIGGS, *House of Representatives, Columbus, O.*

DEAR SIR:— You have submitted to me a proposed house bill entitled "An Act for the relief of Conley E. Guilford, Treasurer of Fulton County, Ohio," and you inquire whether, if such bill in the form presented should be enacted as a law, such law would be in contravention of the provisions of the constitution of Ohio.

The bill proposes to authorize the commissioners of the county of Fulton to allow a bill for the sum of \$701.50 to reimburse Conley E. Guilford for the loss of said amount sustained by him as Treasurer of Fulton county, by reason of a burglary of his office. And this proposed bill seeks to authorize the County Auditor to issue an order on the county treasury for the reimbursement of Guilford for the loss of said money.

On January 30th, 1904, the question of the constitutionality of a special relief bill was submitted to me by the committee on county affairs of the House of Representatives of the 76th General Assembly, the particular bill being for the relief of one Dwight A. Austin, Treasurer of Geauga County, Ohio, by which bill it was sought to reimburse Mr. Austin for public moneys lost by him as County Treasurer through failure of a certain banking house with which said moneys were deposited.

In the opinion rendered by me to the committee on county affairs, after an extended examination of authorities, I held the proposed relief bill to be unconstitutional for the following reasons:

First: That it violated section 2 of article I of the constitution which declares that government is instituted for the "equal protection and benefit" of all the people.

Second: Because the proposed bill violated the provision of section 26 of article II, which ordains that all laws of a general nature shall have a uniform operation throughout the state.

Third: That said proposed bill violates section 28 of article II of the constitution which declares that the General Assembly shall have no power to pass retroactive laws or laws impairing the obligation of contracts.

Subsequent to the date of the above opinion the Supreme Court of Ohio in *State ex rel. Karg v. Commissioners of Crane Tp.*, 71 O. S., 496, unreported, affirming the decision of the Circuit Court of Wyandot County, declared special relief bills to be unconstitutional. Your proposed bill, therefore, being a special relief bill, if enacted into a law, would, in my opinion, be in contravention of the provisions of the constitution of the State of Ohio.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## JUSTICE OF THE PEACE—CONSTITUTIONAL CLASSIFICATION OF.

Justices of the peace are neither state nor township officers, within the meaning of the constitution.

February 14, 1906.

HON. U. S. BRANDT, *Senate Chamber, Columbus, Ohio.*

DEAR SIR:—Your communication dated February 9th in which you request an opinion as to whether, within the meaning of the constitution, justices of the peace are state officers or township officers, is received. In reply I beg leave to say that while section 1 of article IV of the constitution vests a part of the judicial power of the state in justices of the peace, yet the constitution contains no provision classifying justices of the peace as either state, county or township officers. Neither has the general assembly classified them by statute further than to fix the limits of their jurisdiction.

Section 9 of article IV of the constitution provides that justices of the peace shall be elected by the electors in each township in the several counties, and the Supreme Court of New York has held under a similar provision in the case of *Gertum v. Supervisors*, 109 N. Y., p. 170, that justices of the peace are town (township) officers. The general assembly of Ohio in the enactment of section 1442 of the Revised Statutes of Ohio, did not evidently regard justices of the peace as township officers, in as much as the section provides for the election of township officers and *justices of the peace*, and fixes the time when township officers shall begin their respective terms of office but makes no provision for the beginning of the term of justices of the peace.

I am therefore of the opinion that within the meaning of the constitution and statutes of Ohio justices of the peace are not regarded as either state or township officers, and as the biennial election amendment provides that state and county officers are to be elected in the even numbered years and all other elective officers in the odd numbered years, justices of the peace will be elected in the odd numbered years.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## HEALTH OFFICER—ABOLITION OF OFFICE OF, DURING TERM OF INCUMBENT.

Village council, having created office of village health officer by ordinance, may subsequently, during the term of incumbent of said office fixed thereby, abolish said office by resolution and terminate such term.

February 28, 1906.

HON. WM. ROLF, *House of Representatives, Columbus, Ohio.*

DEAR SIR:—I hand you herewith the several communications which were left with this department by you in my absence with a request for an opinion thereon.

In compliance therewith I beg to say that from the facts as shown by the enclosed correspondence, resolutions and ordinances, on July 16th, 1903, the village council of Collinwood adopted an ordinance abolishing the board of health and providing for a health officer in lieu thereof. Dr. Williams was thereupon



appointed as health officer and, in September, 1905, was reappointed for a term of one year to expire September 11th, 1906. This appointment was confirmed.

On January 8th, 1906, the council, by resolution, abolished the office of health officer and substituted therefor a board of health and thereupon Dr. McClenahan was appointed health officer, which appointment was confirmed. Dr. Williams' term, it would thus appear, would not expire until September 11th, 1906, while the new health officer, Dr. McClenahan, was appointed on the 8th day of January, 1906. The validity of Dr. McClenahan's appointment would depend upon whether or not the council could abolish the office of health officer and substitute therefor a board of health.

It has been repeatedly held in this state by our Supreme Court and other courts, that an officer whose term of office is dependent upon the existence of some ordinance of a city would have his term of office terminated if the office were abolished by repeal of the ordinance. The same rule prevails with regard to offices created by ordinance as applies to offices created by statute. If a statute is repealed the office is thereby vacated. It would therefore appear that the council did possess the power exercised by it to remove the health officer by repealing the ordinance by which his office was created, and substituting therefor a board of health, and Dr. McClenahan should be considered as the rightful appointee as health officer.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

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#### GRANT OF EXEMPTION FROM TAXATION IS A CONTRACT THE OBLIGATION OF WHICH MAY NOT BE IMPAIRED.

House bill number 705, providing that certain lands forever exempted from taxation by act incorporating Miami University shall be subject to taxation violates provisions of federal and state constitutions respecting impairment of the obligation of contracts.

March 5, 1906.

HON. R. M. BILLINGSLEA, *House of Representatives, Columbus, Ohio.*

DEAR SIR:—You have requested an opinion as to the constitutionality of House Bill No. 705, relating to lands of the Miami University. The bill contains, among others, the following provisions:

“All other lands and lots of said university lands and lots now under lease, or which may be leased, together with all the dwellings, buildings, and other improvements thereon, or which may hereafter be placed thereon, shall be subject to state taxes, which shall be levied and collected in the same manner as state and county taxes are levied and collected and by the same officials.”

The Supreme Court of this state in the case of *Matheny v. Golden, Treas.*, 5 O. S., 361, held that where the state, by an act incorporating the Ohio University, vested in that institution two townships of land for the support of the university and in the same act authorized the university to lease said lands for ninety-nine years, renewable forever, and provided that lands thus to be leased should forever thereafter be exempt from all state taxes, the acceptance of such leases at a fixed rent or rate of purchase by the lessees constituted a binding contract between the state and the lessees.



"A subsequent act of the legislature levying a tax on said lands is a 'law impairing the obligation of contracts' within the purview of the tenth section of the first article of the constitution of the United States and is therefore *pro tanto*, null and void."

In the case of *Kumler et al. v. Henry Traber*, Treas. of Butler County, 5 O. S., 443, the question of the constitutionality of legislation taxing lands leased by the Miami University was before the court and *Matheny v. Golden* was followed.

The bill also repeals the provision of the original charter which requires lessees to "pay 6 per cent per annum on the amount of their purchase during the continuance of their lease;" and further provides that the "lessees (leases) of said university lands and lots shall hereafter be held to be and to be equal to a title in fee simple." In other words, the act stops the payment of rents to the university under existing leases and vests a title in fee simple in the present lessees.

Section 15 of the original act of incorporation (7 O. L., 190) reserves to the legislature power to "alter, limit or restrain in any of the powers by this act, vested in the said company, as shall be necessary to promote the best interests of the said university, with all necessary powers and authority for the better aid, preservation and government thereof."

The above provisions of House Bill No. 705 clearly impair the obligation of the charter contract with the university unless they are a valid exercise of the powers reserved by the section just quoted. The lands were vested in the corporation by the act of the legislature and an executed grant is a contract within the protection of article 1, section 10, of the federal constitution.

*Fletcher v. Peck*, 6 Cranch, 87;

*Franklin Co. Grammar School v. Bailey*, 62 Vt. 476.

The reserved power to alter, limit or restrain does not, however, enable the legislature to appropriate to the state or to individuals property which has been vested in the corporation for the support of the university, nor does it enable it to divert from the uses declared by congress land vested in the state legislature by congress "for the purpose of establishing an academy." The fact that in lieu of said lands and the rentals thereof an annual payment of "an amount equal to 6 per cent. on the valuation of said university lots and lands as now fixed or which may hereafter be fixed" is provided, does not affect the constitutionality of the act. It is a substitution of another source of income which may be of greater or less value for property which is itself charged with a definite trust.

In the case of *Trustees of Vincennes University v. The State of Indiana*, 14 How. 268, the facts were similar to, but not identical with those involved in this question. The majority of the court held that title to the lands set apart for the use of a seminary of learning in Vincennes never vested in the state, but was in abeyance from 1804 when the dedication to this use was made by congress, until 1806 when the board of trustees of Vincennes University was incorporated by the Indiana legislature, at which date the title vested in said corporation. There was no direct conveyance by the federal congress to the state legislature upon an express trust, as was the case with the lands of Miami University, but the lands were nevertheless held to be the subject of a trust which the state had no power to defeat.

"The legislative power of the Territory and State, in advancing the public interests was bound to afford all the facilities necessary to carry out and secure the benign objects of congress in making these township reservations. \* \* \* The donation in no sense proceeded from the

State. It was made by the federal government and it is no more subject to State power than if it had been given by an individual for the same purpose. \* \* \* The complainants by accepting and exercising their corporate powers, acquired certain rights, and made certain contracts, which could not be impaired by the legislature. They constituted an eleemosynary corporation, in which the state has no property, and can exercise no power to defeat the trust."

Trustees for Vincennes University v. Ind., 14 How. 277:

Chief Justice Taney in a dissenting opinion held that the title of the land passed directly from the United States to the State as trustees, but says, page 278:

"This reservation from sale \* \* \* undoubtedly dedicated them to the uses for which they were reserved; and they cannot be appropriated by the State to any other purpose."

The act incorporating Cincinnati college in this state contained the following provision:

"This act shall be subject to such alterations as the general assembly may from time to time see proper to make."

The opinion of the court in the case of Ohio v. Neff, 52 O. S. 375, 405 and 406, which dealt with an attempted alteration of the charter of this college fully answers the question of the constitutionality of the bill before me.

"Whether The Cincinnati College is regarded as the owner in its own right of the property donated to it, or as the representative of the donors, charged with the execution of their purpose, is not material; in either view the property is private as contradistinguished from public, and as such is within the protection of that provision of the constitution which declares private property to be inviolate.

"We now come to the consideration of the provision in the charter of The Cincinnati College, which reserves to the general assembly the right of amendment. This reservation would be wholly unnecessary if The Cincinnati College had no rights of property which the general assembly was bound to respect. If the legislature at its will could divest this corporation of its property, the legislative control of the institution would be absolute, for by taking away its entire property rights, all effectual corporate action would be at once paralyzed. Thenceforward it would be powerless to advance the purposes of its creation.

"The authorities agree in holding that the legislative power of amendment and alteration thus reserved in charters, is not absolute, although its boundaries are not yet established.

"Whatever difficulties have been encountered by the courts in ascertaining the limits of this reserved legislative power, they concur in denying that under it, the legislature can strip a corporation of its right of property.

"The power of alteration and amendment is not without limit. The alterations must be reasonable; they must be in good faith, and be consistent with the scope and object of the act of incorporation. Sheer oppression and wrong cannot be inflicted under the guise of amendment or alteration. Beyond the sphere of the reserved powers, *the vested*



*rights of property of corporation in such cases are surrounded by the same sanctions and are as inviolable as in other cases.'*

"If good faith is to be kept with these donors, we must deny to the legislature the powers to seize the fund thus raised, and transfer it from these chosen agents to others, in whose discretion they did not confide. This power, we think, is prohibited by section 19, of article I, of the constitution of 1852, which declares the inviolability of private property."

My conclusion is that House Bill No. 705 violates the tenth section of the first article of the constitution of the United States, and the nineteenth section of the first article of the constitution of Ohio.

This opinion is not to be construed as holding that the university corporation must always retain the fee to the land. The legislature with the consent of the corporation, or the corporation with the consent of the legislature may probably vest title to part of the land of the corporation in third parties, provided the consideration received for such transfer goes to the corporation for the benefit of the university.

Armstrong v. Treasurer of Athens Co., 10 O., 244;

Trustees of Vincennes v. Indiana, *supra*;

Cooper v. Roberts, 18 How., 173, 181.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

PROSECUTING ATTORNEYS—COMPENSATION OF, MAY BE FIXED BY ENACTMENT OF STATUTE EFFECTIVE DURING EXISTING TERMS. EFFECT UPON TENURE OF OFFICE OF SHERIFFS AND TREASURERS OF CONSTITUTIONAL AMENDMENT EXTENDING EXISTING TERMS OF SAID OFFICERS.

Where there is no compensation fixed for an office under existing laws, a statute may be enacted fixing compensation for such office, which statute will be effective during existing terms:—concerning enactment of salary law for prosecuting attorneys. Constitutional amendment (Article XVII, section 3), authorizing extension of existing terms of certain officers, including sheriff and county treasurer, does not affect provision of article X, section 3, rendering any person ineligible to said offices for more than four years in any period of six years.

March 5, 1906.

HON. CARL F. SHULER, *House of Representatives, Columbus, Ohio.*

DEAR SIR:—Upon the several matters inquired of in your letter just at hand I advise you as follows:

(1). In my opinion there is no existing constitutional statute providing compensation for the work performed by prosecuting attorneys other than that under section 1274, nor has there ever been since the adoption of the present constitution. I am of the opinion, therefore, that a statute may be enacted providing such compensation and affecting those prosecuting attorneys now in office. It has been held, at least in other states, that a salary might be fixed after the beginning of the term of office of an office for profit without contravening a constitutional provision that salaries should not be increased or diminished during the term.



(2). In my opinion the constitutional amendment authorizing the extension of the terms of officers to conform to the requirements of that amendment as to biennial elections does not in any way affect the provisions of section 3, article X of the constitution rendering any person ineligible to the office of sheriff or county treasurer for more than four years in any period of six years.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

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#### COUNCIL — VILLAGE — COMPENSATION OF MEMBERS.

Village council, members of which elected to serve without compensation, may provide compensation by ordinance effective during incumbency of such members. Village council may dismiss building inspector subject to liability imposed by common law for dismissal of employe without cause.

March 8, 1906.

HON. WILLIAM Z. ROLL, *House of Representatives, Columbus, Ohio.*

DEAR SIR: — I beg to submit answers to the two questions you ask of this department.

First: "Can councilmen in villages who are elected to office without compensation, vote themselves a salary while in office?"

In my judgment this may lawfully be done. Section 197 of the municipal code as amended April 20th, 1904, (97 O. L., 118) provides that in villages

"Members of council may receive as compensation the sum of \$2.00 for each meeting, not to exceed twenty-four meetings in any one year."

Originally, the power to fix any compensation for councilmen in villages was not conferred by the municipal code; and if no compensation has been fixed by the predecessor of any council the latter may exercise the power even though it affects members during existing terms. This proposition is sustained by several well considered cases. In the case of *Purcell v. Parks*, 82 Ill., 346, the second paragraph of the syllabus is as follows:

"Where the county board has not fixed the compensation of the county clerk before his election, the power to do so remains, and they may fix it after his election, and it will not be a violation of the constitutional provision prohibiting the increasing or diminishing of his compensation during his term of office, because *until fixed* by the board he has no compensation to be either increased or diminished."

Your second question is as follows:

"When a building inspector is appointed to the office as building inspector, by ordinance, say for one year, and after his term of office expired is reappointed for one year by resolution, has the council right to appoint a man in his place without rescinding the resolution?"

Paragraph 13 of section 7 of the municipal code gives to councils the right to provide for the inspection of buildings. The council does not thereby have the

right to create an office, but the position of inspector is merely an employment as distinguished from an office and the inspector is an employe of council and not an officer. The same rule would govern the village council as would govern a private party in an attempted dismissal of an employe without cause, and should the inspector be dismissed without cause the same rule of damages would apply to him as between individuals when a contract of employment had been broken without sufficient cause so to do.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

#### EXTENSION OF EXISTING TERMS.

Power of general assembly to extend existing terms limited to such legislation as is necessary to effect the purpose of article XVII, section 1, of the constitution.

March 19, 1906.

HON. SAMUEL H. WEST, *Senate Chamber, Columbus, Ohio.*

DEAR SIR:—Replying to your request for an opinion upon the subject, I beg to advise you that in my judgment the General Assembly is without constitutional power to extend the term of any elective public officer for any length of time whatever, beyond that absolutely necessary to carry into effect the purpose of Sec. 1 of the new amendment to the constitution, providing for biennial elections. With respect to those county offices, the terms of which will expire under existing laws in odd numbered years, and in which case successors can be elected hereafter in November of the preceding even numbered years, there appears to be no such necessity for an extension of said terms as would be justified by the grant of power in the new constitutional amendment.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

#### PUBLIC AFFAIRS—BOARD OF TRUSTEES OF—EFFECT OF PROPOSED AMENDMENT OF SECTION 205, M. C. UPON APPOINTMENT OF.

Amendment of section 205, M. C., so as to authorize mayor to appoint members of board of trustees of public affairs whenever council provides for existence of such board.

March 20, 1906.

DR. YOUNG STEPHENSON, *House of Representatives, Columbus, Ohio.*

DEAR SIR:—Section 205 of an act to provide for the organization of cities, etc., provides that,

“In the event that the council shall in accordance with the provisions of this act, prior to the first election of municipal officers to be held under the provisions of this act, establish such board of trustees of public affairs, the mayor of such village shall appoint the members of such board subject to confirmation by the council, who shall hold



their respective offices until such time as their successors shall have been elected in accordance with the provisions hereof, and such successor shall be elected at the next regular election of municipal officers held in such village."

The power of the mayor to appoint the members of the board is by the terms of this act limited to the time intervening between the time of the passage of this act and the first election of municipal officers held under the provisions of this act. This is the natural meaning of the words used. Section 222 of the act fixes the date when the first election of municipal officers shall be held as the first Monday in April, 1903.

The bill as amended by striking out the words, "prior to the first election of municipal officers to be held under the provisions of this act," will give the mayor power to appoint the board, subject of course to confirmation by the council, at any time when the council provides for the existence of such a board; and such appointees will hold office until the next regular election of municipal officers.

It might be well also to amend the last sentence of paragraph one of section 205 by striking out the words, "in like manner as the original appointments were made" and substituting the words "by appointment by the mayor subject to confirmation by the council." The words now used probably have the same meaning as the proposed amendment but are less certain, and refer to a prior appointment which may never have been made. In as much as you are making one change in the act it might be as well to make this additional change in the direction of greater certainty.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

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#### POLICE POWER AS TO FIXING HOURS OF EMPLOYMENT.

House bill number 328, abridging right of parties to fix, by contract, number of hours constituting day's work of telegraph and telephone operators, constitutional.

March 22, 1906.

HON. HOWARD W. PEARS, *House of Representatives.*

DEAR SIR:—The Supreme Court has held that it is not within the power of the legislature by the enactment of a positive law to abridge the right of parties to fix, by contract, the number of hours that shall constitute a day's work nor to deny effect to the stipulations and agreements of the parties themselves touching such matters, *except only as the exercise of such power may be authorized for the common welfare*; and the right to so exercise its power of restraint extends only to matters affecting the public welfare, or the health, *safety* and morals of the community.

House Bill No. 328, the provisions of which apply only to telegraph or telephone operators employed in connection with the despatching of trains, seems to come within the exception above stated. The safety of the public is affected by the efficiency of such employes. The bill would probably be held constitutional.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*



## DISCHARGE OF COUNTY TREASURERS AND SURETIES FROM LIABILITY.

Effect of House bill number 44, providing for release of county treasurers and their sureties from liability for loss of public funds in certain cases; said bill is not retroactive.

March 24, 1906.

HON. A. R. PHILLIPS, *House of Representatives, Columbus, Ohio.*

DEAR SIR:— You request my opinion as to the effect upon pending or past cases or transactions of House Bill No. 44, entitled "A Bill to provide for the release and discharge of county, city, village, township and school district treasurers and their sureties in certain cases."

This bill authorizes the release of treasurers and sureties above enumerated from liability for loss of public funds where such loss is caused by fire, robbery, failure of bank, etc., but without fault or negligence on the part of such treasurers or sureties. It provides for the determination by a designated local authority of the existence or non-existence of negligence on the part of the officers and allows an appeal from such finding to the court of common pleas. It further provides that after a finding of no fault or negligence has been made, and before the release or discharge is granted, the question of discharging the treasurer and his sureties may be submitted to the people and decided by popular vote of the qualified electors in the interested political subdivision of the state. Further it is made the duty of such local board to submit this question of release or non-release to a vote of such electors on demand of 25 per cent. of the qualified voters within the district.

In my judgment this law is not retroactive, and its provisions would not apply to cases where a loss has already been sustained; nor is there any authority to release any treasurer or his sureties where the right under existing laws to insist upon the payment of the loss has already accrued.

The constitutionality of the act, in so far as it may be questioned on other grounds is assumed. It has a uniform operation throughout the state, and does not take from the county, city, village, township or school district the right to insist on a strict enforcement of the terms of the bonds of their respective treasurers; although there may be some question as to the constitutionanl power to confer upon the local board or electors the right to determine the question of negligence of the public officer and thus fix his liability under the law.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

## COMMISSION DOES NOT DETERMINE TERM OF OFFICE FIXED BY STATUTE.

Term of office of county treasurer fixed by statute, not by commission.

March 26, 1906.

HON. C. B. WINTERS, *House of Representatives.*

DEAR SIR:— In reply to the inquiry submitted to you by William Goodsite, treasurer of Erie county, relative to the expiration of his term of office, I beg

leave to say that the term designated in the treasurer's commission in no way affects the duration of his term of office.

The term of office of a county treasurer is fixed by section 1079 of the Revised Statutes of Ohio, which provides that a county treasurer shall hold office for a term of two years, from the first Monday of September next after his election. Therefore Mr. Goodsite's term of office will expire at the end of two years from the first Monday of September next after his election.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

#### COUNTY AGRICULTURAL SOCIETY—MEMBERS OF BOARD OF MANAGERS OF, ARE TOWNSHIP OFFICERS.

Members of board of managers of Shelby county agricultural society, organized under special act in 95 O. L., 833, are township officers.

March 29, 1906.

HON. J. E. RUSSELL, *Ohio Senate, Columbus, Ohio.*

DEAR SIR:—You inquire whether the members of the board of managers of the county agricultural societies, such as are provided for by section 5 of House Bill No. 563, 95 O. L. 833, are county or township officers.

Section 7 of this act provides that,

“The election of members of the agricultural board shall be governed in all respects by the same laws governing the election of other township officers.”

I am of the opinion, therefore, that the members of this board are township officers, and should therefore be elected in the odd numbered years.

Very truly yours,

WADE H. ELLIS.

*Attorney General.*

#### TOWNSHIP DITCH SUPERVISOR—EFFECT OF PROVISION, IN BILL CREATING OFFICE, FOR APPOINTMENT OF, BY TOWNSHIP TRUSTEES, FOR INTERVAL UNTIL FIRST ELECTION FOR TOWNSHIP OFFICERS.

Bill providing for creation of office of township ditch supervisor, if enacted into law, would be valid and constitutional as to its other provisions, though provision requiring appointment to said office by township trustees for interval until first election for township officers be held unconstitutional; whether general assembly may create a vacancy in an elective office, and provide for appointment of officer to fill same, *quaere*.

March 28, 1906.

HON. D. D. SPANGLER, *House of Representatives.*

DEAR SIR:—Your letter of March 22nd, as I understand it, refers to a bill creating the elective office of township ditch supervisor. You wish my opinion as to the constitutionality of that provision of the bill which requires the township



trustees, on demand of at least five land owners, to appoint a township ditch supervisor to serve during the interim between the date of the passage of this act and the next annual election.

Section 27, article II of the constitution provides that the filling of all vacancies not otherwise provided for by this constitution, or the constitution of the United States, shall be made in such manner as may be directed by law, but no appointing power shall be exercised by the general assembly. That this section gives the legislature power to vest in an existing board or officer, as such, power of appointment to fill a "vacancy" in an elective office "not otherwise provided for," by the constitution is settled.

State v. Brewster, 44 O. S., 589;

Walker v. Cinti., 21 O. S., 14;

State v. Pugh, 43 O. S., 110.

The Ohio constitution provides, article X,

Sec. 1. "The general assembly shall provide by law, for the election of such county and township officers as may be necessary."

Sec. 4. "Township officers shall be elected by the electors of each township, at such time, in such manner, and for such term, not exceeding three years, as may be provided by law; but shall hold their offices until their successors are elected and qualified."

Article XVII of the constitution, adopted November, 1905, provides:

"All vacancies in other elective offices shall be filled for the unexpired term in such manner as may be prescribed by law."

Whether the legislature can provide for the appointment of an officer to fill a township office created by the legislature during the interim between the passage of the act creating the office and the first election which may lawfully be held to fill such office, has never been decided by the courts of this state. The answer to this question depends on whether such interval is a "vacancy" within the meaning of Article II, Section 27. The inter-relation of Article X, Sections 1 and 2, and Article II, Section 27, and the meaning of the word "vacancy," are considered by Judge Shauck in the case of State v. Thrall, 59 O. S., 398, 399:

"It has never been held by this court that the legislature may create a vacancy in an *existing* county office to be filled by appointment, although it was held that the official term of an elected clerk of the court may, by the operation of the constitutional provision referred to and an act of the legislature, be in effect extended beyond the term for which he had been elected, the extended term not exceeding any limitation placed thereon by the constitution.

"Although the power exercised by the general assembly in this instance is legislative in character it must be exercised conformably to the pertinent sections of the 10th article of the constitution. 'Section 1. The general assembly shall provide by law for the election of such county and township officers as may be necessary. Section 2. County officers shall be elected on the first Tuesday after the first Monday in November by the electors of each county, in such manner and for such term, not exceeding three years, as may be provided by law. Section 3. No person shall be eligible to the office of sheriff or county treasurer for more than



four years in any period of six years.' The mandatory provision that the general assembly shall provide by law for the election of county officers is a clear denial of its power to provide for their appointment, and the requirement that such officers shall be elected on the day named negatives the view that they may be appointed by any authority. State ex rel. v. Brennan, 49 Ohio St., 33. The power if the general assembly with respect to the subject is completely comprehended in these sections of the 10th article and section 27 of the second article: 'The election and appointment of all officers, and the filling of all vacancies, not otherwise provided for by this constitution, or the constitution of the United States, shall be made in such manner as may be directed by law \* \* \*.' The nature and terms of the power granted by this section indicate that, in its application to county offices, it is subordinate to the provisions of the 10th article. The vacancies for which it authorizes the legislature to provide are those which occur fortuitously, as by death or resignation, in offices for which there has been provided, in obedience to the 10th article, an elected incumbent. The power to provide for the filling of such vacancy does not imply a power to create an interval in the office between the official terms of two persons elected to fill it. With respect to the interval which the general assembly has attempted to create by the legislation in question it is 'otherwise provided' by the 10th article, and as to the principles involved the act does not differ from that considered in the State v. Brennan."

A distinction might be made between a vacancy in an existing office created by an attempted change in the date of election to such office and the vacancy which must necessarily exist in a new office between the date of its creation by the legislature and the first election of an incumbent. It was a vacancy of the former sort that was before the court in State v. Thrall, supra; in other words a vacancy in an elective office was created by the voluntary action of the legislature.

The definition of the word "vacancies" in the above opinion makes it doubtful whether the distinction suggested would be considered important by the court in determining the constitutionality of legislation providing for an appointment to fill this preliminary vacancy. It has been frequently held in other jurisdictions that a vacancy is *ipso facto* created by the creation of a new office and that the legislature may provide for an appointment to fill such vacancy, although the office be an elective office under the constitution.

Stocking v. State, 7 Ind. 326, 329;  
Walsh v. Commonwealth, 89 Pa. St. 419;  
In Re 4th Jud. Dis. 4 Wyo. 133, 148;  
Clark v. Irwin, 5 Nev. 111, 125.

The whole bill is not before me, but if the other provisions are constitutional the law would be operative *pro tanto* even though the provisions with reference to appointment should be held unconstitutional.

It is not to be presumed that the general law establishing the elective office of township ditch supervisor would not have been passed even if the legislature had known that they could not provide for filling such offices at once, by appointment

The bill may therefore be passed in its present form.

Very truly yours,

WADE H. ELLIS,  
Attorney General.

GENERAL ASSEMBLY—MEMBER OF, ELIGIBLE TO APPOINTMENT  
AS MEMBER OF COMMISSION TO ERECT HOME FOR CRIPPLED  
AND DEFORMED CHILDREN

Membership on commission to erect home for crippled and deformed children, being an appointment for the performance of a specific duty, upon which performance rights and duties attaching to such membership must terminate, does not constitute an "office," within the meaning of article II, section 19 of the constitution and section (18-1) R. S.

May 28, 1906.

HON. JOHN W. HARPER, *Member Senate, 77th General Assembly, First District, Cincinnati, Ohio.*

DEAR SIR:—The question presented in your letter of May 25th as to your eligibility to appointment as a member of the commission for the erection of a home for crippled and deformed children, is not entirely free from difficulty.

Article II, Section 19 of the constitution provides:

"No senator or representative shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any civil office under this state, which shall be created or the emoluments of which shall have been increased, during the term for which he shall have been elected."

What constitutes an office has been the subject of frequent consideration by the courts of this state. In *State v. Halliday*, 61 O. S., 171, the court says:

"The distinguishing characteristic of a public officer is, that the incumbent, in an independent capacity, is clothed with some part of the sovereignty of the state, to be exercised in the interest of the public as required by law. The office must be of a continuous character as opposed to a temporary employment, though the time be divided into terms to be filled by election or appointment in accordance with the genius of our system of government; and a bond and an oath of office are generally, though not always, required for the faithful performance of the duties of the incumbent; and compensation is made either by salary or fees, or both."

And in *Barker v. State*, 69 O. S., 68-72, the court says that the two most essential characteristics of a public office are, first, the fact that the incumbent is clothed with some part of the sovereignty of the state, etc., and second, that the duties are of a continuous character as opposed to a temporary employment. Emolument is not a necessary incident of a public office. *State v. Brennan*, 49 O. S., 38.

In the case of *Commissioners v. Pargillis*, 10 C. C., 376, affirmed by the supreme court, 53 O. S., 680, it is held that a building committee appointed by the circuit court to act with the county commissioners in making and approving plans and awarding contracts for a county court house, were not county officers within the meaning of section 1, of Article X of the Constitution.

The case of *Slatmyer v. Springborn*, 1 N. P. N. S., 157, is to the same effect.

The cases seem to be uniform in holding that persons appointed to perform some specific duty, and not for any definite term and whose rights and duties



terminate when the specific duty for which they were appointed is performed, are not public officers within the meaning of the constitution.

Section (18-1) R. S., provides that no member of the general assembly shall be appointed,

“Trustee of any benevolent, educational, penal or reformatory institution of the state supported in whole or in part by funds drawn from the state treasury.”

The duties of the commission appointed by 98 O. L., 57, terminate when the buildings are completed. The board of trustees, to whom the general management and control of the established institution is intrusted, must be appointed as soon as the buildings are completed. The function of the members of the commission is quite different from that of the trustees, and I do not therefore believe that the statute just referred to prohibits your appointment as a member of the commission.

The act creating the commission, section 3, provides that,

“The members of said commission appointed by the governor, before entering upon the duties of their office, shall take and subscribe an oath or affirmation before some competent authority, faithfully to discharge all the duties required of them by this act.”

This language seems to indicate that the legislature considered that the members of said commission held offices.

I am of the opinion, all things considered, that no constitutional or statutory provision renders you ineligible to appointment as a member of the commission. I cannot positively assert, however, that a court would be of the same opinion, as there is no direct or controlling authority on the exact question presented.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### CITIZENSHIP IN STATE LOST BY PERMANENT ABANDONMENT OF RESIDENCE THEREIN.

Residence in another state with intention of becoming citizen thereof terminates right of suffrage in Ohio and tenure of office as member of general assembly.

October 30, 1906.

HON. D. D. SPANGLER, *New Batavia, Ohio.*

DEAR SIR:—Your inquiry of recent date inquiring whether or not you can move to the state of Maryland with the intention of becoming a citizen of that state sometime in the future and, at the same time, retain your citizenship in Ohio and your seat in the legislature until your term expires, is received. In reply I beg leave to say if you move to Maryland with the intention of becoming a citizen of that state now, or in the future, it is in effect an abandonment of your residence in Ohio and, in my opinion, you would not be entitled to exercise your suffrage in Ohio or retain your seat in the legislature.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



(To the Prosecuting Attorneys.)

PROSECUTING ATTORNEY — DUTIES OF.

Prosecuting attorney is not by law the legal adviser of township officers (prior to enactment of Conroy law).

January 13, 1906.

HON. F. M. STEVENS, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:— Your communication dated January 12th inquiring whether or not the prosecuting attorney is the legal adviser to township officers, is received. In reply I beg leave to say that the prosecuting attorney is not, by law, the legal adviser of the township trustees and is not entitled to compensation out of the county treasury for legal services rendered them. Under section 1274, R. S., the prosecuting attorney is only made the adviser to the county commissioners and other county officers. The township trustees, may, however, employ the prosecuting attorney as their counsel but the compensation would have to be paid out of the township treasury.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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WORTHY BLIND — ADMINISTRATOR MAY NOT RECEIVE ALLOWANCE FOR SUPPORT OF.

Certificate from probate judge for support of worthy blind person not payable to administrator after death of blind person.

January 18, 1906.

HON. HAMILTON E. HOGE, *Prosecuting Attorney, Kenton, Ohio.*

DEAR SIR:— Your communication dated January 17th is received. You say that the probate court of your county issued a certificate to a person coming within the provisions of the act to provide relief for the worthy blind; that this certificate was filed with the county auditor in the month of August, 1904, and payment refused for the reason that the county commissioners had made no appropriation for its payment; that the person in whose favor the certificate was made died in March, 1905, and an administrator has been appointed for her estate; that the commissioners made the necessary appropriation for the year 1905; that the administrator is now claiming the several amounts that the probate court has certified to from time to time during the life of the decedent from the county treasury, and you inquire whether or not these certificates are valid claims against the county.

In reply I beg leave to say that the act to provide relief for the worthy blind is intended to assist in the support of worthy blind persons who come within its provisions.

Section 5 of the act, R. S. (670-5), provides that payment shall be made to the beneficiary upon the presentation of the certificate, either personally or through the United States mail. As the money is only intended for the support of the applicant, the administrator of the estate would have no claim against the county.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## PROSECUTING ATTORNEY—COMPENSATION OF.

County commissioners have no authority to fix the compensation of the prosecuting attorney.

January 19, 1906.

HON. CHARLES C. KEARNS, *Batavia, Ohio.*

DEAR SIR:—Your communication dated January 16th, relative to the authority of the county commissioners under section 1297 of the Revised Statutes, to fix the compensation of the prosecuting attorney at less than \$2.00 per hundred, is received. In reply I beg leave to say that under section 1297, county commissioners are only authorized to direct at what times and in what installments the compensation of the prosecuting attorney shall be paid, and have no authority in fixing the compensation. Prior to the amendment of section 1297, 95 O. L., 486, county commissioners were authorized to fix the compensation of prosecuting attorneys within certain limitations, as found in 92 O. L. at page 358.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## PROSECUTING ATTORNEY—EMPLOYMENT OF AS LEGAL COUNSEL.

County commissioners may employ prosecuting attorney as legal counsel under section 845, R. S., (prior to enactment of Conroy law).

January 22, 1906.

HON. ROBERT R. NEVIN, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—Your letter dated January 17th relative to your making a contract with the county commissioners under section 845, as amended, is received.

In reply I beg leave to say, I know of no reason why the county commissioners cannot contract with the prosecuting attorney to perform the duties required under said section. Of course you will understand, if the prosecutor is employed under section 845 he will not be entitled to any allowance under section 1274.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## FISH AND GAME LAWS.

Construction of sections 409a, 409d and 409g, R. S.

January 27, 1906.

HON. C. R. HORNBECK, *Prosecuting Attorney, London, Ohio.*

DEAR SIR:—Your several letters asking for a construction of sections 409a and 409d of the Revised Statutes are received.

Original section 409a is now section 6 of an act approved April 26th, 1904 (97 O. L., 463), and is substantially in the same words as original section 409a. Under this section prosecution for offenses not committed in the presence of the



warden or other police officer should be instituted only upon the approval of the prosecuting attorney of the county in which the offense is committed or under the direction of the attorney general.

Section 409*d*, as it appears in the Revised Statutes, has not been amended.

You state, however, in your communications that in the particular case referred to the warden found some "skins of birds" in the possession of the person who was arrested, and that thereupon prosecution was instituted, without such prosecution having been first approved by the prosecuting attorney or directed by the attorney general, and you ask whether such prosecution was properly begun, and whether the costs made in such prosecution are to be certified and paid under section 409*d* of the Revised Statutes.

Section 12 of the act creating the fish and game commission, approved April 26, 1904 (97 O. L., 463), makes it unlawful for any person to have in his possession, either dead or alive, any of the birds mentioned in said section, and also provides that no part of the plumage, skin or body of any such bird shall be sold or had in possession for sale, except as provided in the section following.

By this section an offense is committed when any person is found to have in his or their possession, the birds, or plumage, skin or body of such birds.

If the birds referred to in your letter are birds included within the terms of section 12, I am inclined to the opinion that the warden would be justified in presuming that such possession was unlawful and could institute proceedings under the fish and game act, and if such proceeding is lawfully instituted, then the costs of the prosecution are to be certified and paid under section 409*d* of the Revised Statutes.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### FEES OF MAYOR AND CHIEF OF POLICE IN STATE CASES. ROAD COMMISSIONER MAY NOT SERVE AS SUPERINTENDENT OF CONSTRUCTION. PROSECUTING ATTORNEY—RIGHTS OF, AS MEMBER OF COMMITTEE TO EXAMINE REPORT OF COUNTY COMMISSIONERS.

Mayor entitled to fees earned in state cases; chief of police may draw such fees, but must turn same into city treasury; magistrates and constables entitled to fees in misdemeanor cases when defendant discharged.

Offices of commissioner of road district and superintendent of road improvement incompatible.

Prosecuting attorney, as member of committee to examine annual report of county commissioners, may file dissenting report; said report should be published.

Itemized statement unnecessary under section 1274, R. S. (prior to enactment of Conroy law).

January 29, 1906.

HON. CHAS. M. WILKINS, *Prosecuting Attorney, Warren, Ohio.*

DEAR SIR:—Your letter of January 26th submitting several inquiries is received. You inquire, first, as to the right of a mayor and chief of police to an allowance by the county commissioners for fees earned in state cases.

The bureau of inspection and supervision of public offices has ruled that a mayor and chief of police are entitled to an allowance by the commissioners for fees earned in state cases; that the mayor is entitled to retain the allowance made



him, while the chief of police is required to turn the fees into the city treasury. This ruling has been approved by this department.

Second. Can magistrates and constables draw fees in cases of misdemeanor when defendant is discharged?

The commissioners may make an allowance to magistrates and constables in cases of misdemeanor within the limitations prescribed in section 1113, R. S.

Third. Can the commissioners of road districts, under the provisions of section (4757-1) and following sections, act as superintendents or inspectors of improved roads and draw pay therefor?

Section (4751-1) provides for the appointment of road commissioner. Section (4757-7) fixes their term of office and provides that said commissioners shall, before entering upon the discharge of their duties take an oath of office. It also fixes their compensation for each day actually employed, and said compensation to be the same as township trustees.

Section (4757-13) authorizes the road commissioners to select a superintendent to superintend the construction of road improvements whenever, in their opinion, the engineer may not have time to perform such duties, and provides that the superintendent's compensation shall not exceed \$4.00 per day for the time actually employed, and in any event not more than \$100 per month.

Section (4757-15) provides that such superintendent, when appointed, shall, before entering upon his duties take and subscribe to an oath of office and give bond.

In my opinion, the office of superintendent of construction is separate and distinct from road commissioner and incompatible therewith. Therefore a road commissioner may not be appointed superintendent of construction.

Fourth. Under the provisions of section 917 of the Revised Statutes is the prosecuting attorney required to sign the report if he does not concur with the statements therein contained? If he does not sign the report, can he file a separate report, and if so, which report is authorized to be published as the report of the committee?

Section 917 does not expressly provide that the report shall be signed by either the committee appointed by the court or the prosecuting attorney, but only provides that said committee when they have completed their examination shall leave the report of their examination with the auditor of the county for the use of the commissioners, who shall immediately thereafter cause said statement, together with the report of the committee, to be published, etc.

I am of the opinion that if the prosecuting attorney cannot agree with the committee appointed by the court as to the nature of the report to be made, that separate reports may be made by the prosecuting attorney, and either or both of the persons composing the committee, and that under section 917 each of said reports should be published.

Fifth. Is the prosecuting attorney required to itemize his bill for allowance to be made by the commissioners on the first Monday in December?

Section 1274 of the Revised Statutes provides that,

"The prosecuting attorney shall be the legal adviser of the county commissioners and other county officers \* \* \*; and for these services the county commissioners shall annually, at their December session, make him such allowance as they think proper."

In my judgment it is not necessary that the prosecuting attorney should submit an itemized bill to the county commissioners under this section.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## IMPROVED ROADS — REGULATION OF BURDENS ON.

Authority of county commissioners to regulate burdens on improved roads.

February 1, 1906.

HON. E. T. HUMES, *Prosecuting Attorney, Delaware, Ohio.*

DEAR SIR: — Your communication dated January 31st relative to the authority the county commissioners have under section 4904, R. S., as amended 97 O. L., 36, to regulate burdens on improved roads, is received. You say that the county commissioners provide in their resolution that from December 1st to April 1st, no person is permitted to transport over said improved road a weight of over 3,400 lbs. including weight of vehicle, when the said improved roads are in a soft or unsettled condition. You inquire whether or not said provision is authorized under section 4904 as amended. Said section provides that the county commissioners of every county shall constitute a board of directors for their respective counties, with power to prescribe the increased gross weight in quantity greater than 3,400 lbs. that may be carried, including weight of vehicle, in vehicles having a width of tire 3 in. or upwards, and cause such regulations to be recorded in their journal. Under this provision the county commissioners may make such regulations as they deem necessary, affecting all vehicles having a width of tire 3 in. or upwards, as to the weight of burden they may transport, in excess of 3,400 lbs.

As you say, the resolution passed by your county commissioners may work a hardship upon some persons yet, in my opinion, the resolution is within the authority conferred by the statute.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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## LOCAL OPTION — ELECTION.

Construction of "votes cast" as used in section (4364-20e) R. S.

February 8, 1906.

HON. JOHN H. CLARK, *Prosecuting Attorney, Marion, Ohio.*

DEAR SIR: — Your communication dated February 7th relative to a construction of the words "votes cast" as found in section (4364-20e) R. S., is received. In reply I beg leave to say that in my opinion the words "votes cast" mean all the votes that were legally offered and placed in the ballot-box, without regard to whether the individual voter voted for all or a part of the candidates on the ticket.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

## VETERINARY SURGERY.

Qualifications to practice veterinary surgery.

February 12, 1906.

HON. L. R. ANDREWS, *Prosecuting Attorney, Ironton, Ohio.*

DEAR SIR:— Your communication dated February 10th relative to the right of persons to practice veterinary surgery within the State of Ohio under an act entitled "An act to regulate the practice of veterinary medicine and surgery," as passed by the legislature May 21st, 1894, (91 O. L., 391), is received.

In reply I beg leave to say that section 1 of this act provides:

"That all persons who now, or shall hereafter practice veterinary medicine and surgery in the state of Ohio, and have not been engaged in such practice for at least three years prior to the passage of this act, in the state of Ohio, shall be examined as to their qualifications by a state board of veterinary examiners, to be appointed as hereinafter provided."

Under this provision no person is permitted to practice veterinary surgery within this state, without first taking the required examination and receiving a certificate, except those persons who had been engaged in the practice of veterinary surgery for at least three years prior to the passage of the act. Such persons are not required to take the examination nor hold the certificate provided for in said act.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## COSTS — ALLOWANCE FOR, WHEN STATE FAILS TO CONVICT.

County commissioners may make an allowance in causes of felonies where the state fails, for any cause, to convict,

February 14, 1906.

HON. IRVIN MCD. SMITH, *Prosecuting Attorney, Hillsboro, Ohio.*

DEAR SIR:— Your communication dated February 13th, relative to the allowance of lost costs by the county commissioners under section 1309, is received. In reply I beg leave to say that section 1309 provides that:

"The county commissioners may \* \* \* make an allowance \* \* \*  
\* in causes of felonies where the state fails," etc.

Under this provision, if the state fails to convict for any cause, the commissioners are authorized to make the allowance.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## LOCAL OPTION — MUNICIPAL — JURISDICTION OF PROSECUTIONS.

Common pleas court has jurisdiction of prosecutions under municipal local option law.

February 15, 1906.

HON. E. E. EUBANKS, *Prosecuting Attorney, Jackson, Ohio.*

DEAR SIR: — Your communication dated February 12th, inquiring whether or not the common pleas court has jurisdiction of prosecutions under the municipal local option law, is received. In reply I beg leave to say that the common pleas court has jurisdiction of such prosecutions and the fine imposed by said court should be turned into the county treasury.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## SHERIFF — FEES OF, FOR RETURNING PRISONER FROM PENITENTIARY FOR TRIAL — HOW PAID.

Fees of sheriff for conveying prisoner confined in penitentiary to county jail pending trial in common pleas court for another offense should be taxed as costs.

February 15, 1906.

HON. W. R. GRAHAM, *Prosecuting Attorney, Youngstown, Ohio.*

DEAR SIR: — Your communication dated February 14th, inquiring whether or not the sheriff is entitled to his fees for services rendered under section 7235, immediately upon the return of the prisoner to the county jail, is received. In reply I beg leave to say that section 7235 provides that

“The sheriff shall receive fees at the rate allowed by law for conveying convicts to the penitentiary”

but in my judgment such fees should be taxed in the cost bill and paid in the usual way.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## DOW TAX — REFUNDER OF.

Refunder of Dow tax may be made to person entitled thereto after fund derived from such tax has been in part distributed.

February 24, 1906.

HON. IRVIN MCD. SMITH, *Prosecuting Attorney, Hillsboro, Ohio.*

DEAR SIR: — Your letter of February 22nd received. You state that a number of persons, recently engaged in traffic in malt and vinous liquors, have discontinued the business and have demanded a refunder for the balance of the year of the Dow tax paid by them. You also state that the “Dow fund” has been in

part distributed in so far that the percentage of the Dow tax collection has been remitted to the state treasurer, and the balance of the Dow tax is still undistributed and in the hands of the county treasurer.

Upon this state of facts you inquire, whether or not the auditor of the county may issue an order of refunder to the persons referred to upon the county treasurer, and whether or not the treasurer should pay such warrants.

The persons applying for a refunder, if they bring themselves within the provisions of the law, are entitled to a warrant of refunder to be paid out of the moneys in the hands of the treasurer derived from the Dow taxes and still undistributed, and the county or sub-division may reimburse itself for that portion of the refunder charged to the state, at the next settlement.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### TUBERCULOSIS — SEPARATION OF PAUPERS AFFECTED WITH.

County commissioners, acting with infirmary directors, may provide separate place at county infirmary for persons affected with tuberculosis.

March 2, 1906.

HON. W. R. GRAHAM, *Prosecuting Attorney, Youngstown, Ohio.*

DEAR SIR:— Your communication dated February 21st, relative to the right of county commissioners to provide a place at the infirmary or elsewhere for the confinement of persons affected with tuberculosis, is received. In reply I beg leave to say that while the county commissioners would not be authorized to construct, at the public expense, a sanitarium or hospital for persons affected with consumption, yet I see no reason why they might not, in conjunction with the infirmary directors, make provision at the county infirmary whereby paupers afflicted with tuberculosis could be kept separate and apart from the other inmates. The commissioners will not be authorized to provide a place for the care and treatment of people in general afflicted with tuberculosis on the ground that consumption is regarded as a contagious disease.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### FEES — IN CASE OF CHANGE OF VENUE.

Fees of sheriff and clerk in case of change of venue when defendant acquitted not chargeable to county in which indictment is found; jury fees in such case are so chargeable.

March 3, 1906.

HON. CHARLES S. SHEPPARD, *Prosecuting Attorney, Cambridge, Ohio.*

DEAR SIR:— Your communication dated February 28th, relative to the payment of sheriff, clerk and jury fees by the county in which the indictment is found in a case where there has been a change of venue and the defendant acquitted, is received.

In reply I beg leave to say that under section 7264, R. S., the costs accruing

from a change of venue, including the compensation of the attorneys appointed to assist the prosecuting attorney, the reasonable expenses of the prosecuting attorney incurred in consequence of such change of venue, the fees of the clerk of the court, the sheriff and the jury fees are to be paid by the commissioners of the county in which the indictment was found.

The supreme court has held in the case of *Commissioners v. State ex rel.*, 49 O. S., 373, that where, in a criminal case the venue is changed, and the state fails to convict, the county in which the indictment is found, is not liable for the fees of the sheriff of the county in which the trial was had. This holding would also apply to the clerk of the court.

The circuit court in the 4th circuit at the February term, 1897, in the case of *State ex rel. Board of Commissioners of Gallia County v. The Commissioners of Meigs County*, held that the provisions of section 7264, R. S., as to the payment of costs, did not include jury fees.

Section 7264 was amended, however, February 7th, 1898, making specific provision for the payment of jury fees.

In my opinion, the county in which the indictment was found, is liable for the jury fees only.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### WARRANT — COUNTY TREASURER — INTEREST.

Warrants on county treasury do not draw interest after notice required by section 1109, R. S., is given.

March 7, 1906.

HON. A. P. MILLER, *Prosecuting Attorney, Pomeroy, Ohio.*

DEAR SIR: — Your letter dated March 6th, inquiring whether or not warrants issued on the county treasury by the auditor stamped "Not paid for want of funds" will draw interest after the treasurer has given the notice required in section 1109 of the Revised Statutes of Ohio, is received. In reply I beg leave to say section 1109 provides:

"So soon as there are sufficient funds in the treasury of the county to redeem the warrants drawn thereon, and on which interest is accruing, the county treasurer shall give notice in some newspaper printed in his county, or circulating therein, that he is ready to redeem such warrants; and from the date of such notice, the interest on such warrants shall cease."

This section expressly provides that the interest shall cease upon the notice being given by the treasurer and, in my judgment, if the holder of the warrant fails to present it for redemption within the time specified in the notice given by the treasurer and then afterwards presents it and the fund out of which it should be paid is again depleted and the warrant could not be redeemed the holder of such warrant would not, by reason of said fact, be entitled to interest after the date of the notice given by the county treasurer.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## TOWNSHIP TRUSTEES — EXTENSION OF EXISTING TERM.

Township trustee elected in spring of 1903 holds over.

March 21, 1906.

HON. CHARLES H. GRAVES, *Prosecuting Attorney, Oak Harbor, Ohio.*

DEAR SIR:— Your letter of March 7th is at hand. You state that at the spring election in 1903, John Peters was elected township trustee of Carroll Township, Ottawa County; that the electors of said township at the November election in 1905 elected one John Winters to fill the interim from April, 1906, to January, 1907. Your question is, who will be entitled to the office at the expiration of the three years for which John Peters was elected?

The constitutional amendment fixing the time for holding elections and terms of office provides:

“And the general assembly shall have power to so extend existing terms of office as to effect the purpose of section 1, of this article.”

“Every elective officer holding office when this amendment is adopted shall continue to hold such office for the full term for which he was elected and until his successor shall be elected and qualified, as provided by law.”

This clearly indicates that the interval between the terms of officers elected under the old law and those elected under the present law is to be filled by the extension of the term of the officers in office at the time the amendment was adopted.

The election of a township officer to fill an office held by a duly elected official whose term does not expire until some months after the date of such election and who holds office “until his successor shall be elected and qualified as provided by law,” is not provided for by any law.

Section 1452 provides for the filling of vacancies in the office of trustee after vacancies have actually occurred. It does not authorize an election or appointment to fill a prospective vacancy. In view of the constitutional provision above quoted and in view of section 1442 as amended March 31st, 1904, pursuant to the constitutional provision, I am of the opinion that there was not even a prospective vacancy in the case you have stated.

The term of office of John Peters continues until the first Monday in January, 1908. His successor should be elected at the November election in 1907. If the constitutional amendment providing that elections for elective officers other than state and county officers should be held in the odd numbered years, had not been passed, Mr. Peters' successor would have been elected at the November election this year. The election of John Winters last November was without authority of law and, consequently, of no effect.

A similar question to that which you have presented arose in connection with the election of a township treasurer in Logan county in 1905, and in Lucas county in 1904, and the same ruling was made by this department.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## FISH AND GAME CASES — COSTS.

When defendant in fish and game case is convicted and committed in default of payment of fine and costs, costs, including jury fees certified to county auditor, who must issue his warrant for same.

March 23, 1906.

HON. JONATHAN E. LADD, *Prosecuting Attorney, Bowling Green, Ohio.*

DEAR SIR:— Your communication dated March 23rd, inquiring as to whether a person convicted under section 9 of an act creating a fish and game commission (R. S. 409d), prescribing its duties, powers, etc., as found on page 463, 97 O. L., should upon conviction and commitment in default of payment of fine or costs, be kept in imprisonment until the jury fees, as provided in said section, are paid, is received.

In reply I beg leave to say that section 9 of said act provides as follows:

“And if the defendant be acquitted, or if convicted and committed in default of payment of fine or costs \* \* \* the costs in such cases shall be certified under oath to the county auditor who, after correcting the same, if found incorrect, shall issue his warrant on the county treasurer in favor of the person or persons to whom such costs and fees are due, and for the amount due each person respectively.”

Under this provision, if the defendant in the case to which you refer, was convicted and committed in default of payment of fine or costs, then the costs in the case including the jury fees should be certified under oath to the county auditor to be paid as directed in said section.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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## PROBATE COURT — CRIMINAL JURISDICTION OF.

Section 6454, R. S., providing for concurrent jurisdiction of probate court in certain counties, is constitutional.

March 28, 1906.

HON. GEORGE C. BARNES, *Prosecuting Attorney, Georgetown, Ohio.*

DEAR SIR:— Your letter dated March 24th, inquiring as to the constitutionality of section 6454 of the Revised Statutes of Ohio, which gives to the probate court concurrent jurisdiction with the court of common pleas in all misdemeanors and all proceedings to prevent crime in certain counties within the state, is received.

In reply I beg leave to say that the fact that this section does not operate uniformly throughout the state is no objection to its constitutionality. Section 8 of article IV of the constitution governing jurisdiction of probate courts is as follows:

“The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the



settlement of the accounts of executors, administrators and guardians, and such jurisdiction in habeas corpus, or issuing of marriage licenses and for the sale of land by executors, administrators and guardians, *and such other jurisdiction in any county or counties as may be provided by law.*"

The supreme court has held in the case of *Kelley v. State*, 6 O. S., 269, that,

"Jurisdiction may be given to the probate court in one county which is not conferred in another. \* \* \* The probate court may, in some counties, possess a jurisdiction concurrent with the common pleas, which is denied to it in others;"

Also in the case of *Giesey v. C. W. Z. Ry Co.*, 4 O. S., 308, the court say:

"That the words 'in any county or counties,' were probably used rather as enabling than restrictive language, and were designed to permit the general assembly — notwithstanding the provisions of the 26th section of the II article, requiring all laws of a general nature to have a uniform operation throughout the state — in its discretion to confer upon the probate court more extended powers in some counties than in others."

Brown county is included in the list of counties enumerated in section 6454, R. S.; therefore, under section 8 of article IV of the constitution and the cases above cited, the probate court of your county has concurrent jurisdiction with the common pleas court in all misdemeanors and all proceedings to prevent crime.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### WORTHY BLIND — ADMINISTRATOR MAY NOT RECEIVE ALLOWANCE FOR SUPPORT OF.

Certificate from probate judge for support of worthy blind person not payable to administrator after death of blind person.

March 31st, 1906.

HON. GEORGE C. BARNES, *Prosecuting Attorney, Georgetown, Ohio.*

DEAR SIR: — Your communication dated March 29th is received. You submit the following case:

An application was made under the worthy blind act, and the probate judge after hearing the application adjudged the applicant to come under the provisions of said act and issued a certificate for the amount then due said applicant. This certificate was presented to the county auditor, on which payment was refused, and while the question as to the authority of the county auditor to refuse payment was pending in the courts, the applicant died. You desire to know whether or not the executor or administrator is entitled to receive from the county treasury the money provided for in said certificate, from the time of the granting of the same to the death of the applicant? In reply I beg leave to say that the worthy blind act is only intended to provide for the *support* of the worthy blind and, in my opinion, any obligation on the part of the county ceases upon the death of the applicant.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## FISH AND GAME CASES—JURY FEES.

Jury fees in fish and game cases are not a part of the costs.

April 4, 1906.

HON. JONATHAN E. LADD, *Prosecuting Attorney, Bowling Green Ohio.*

DEAR SIR:—Your communication dated March 28th is received. In reply I beg leave to say that section 9 of the fish and game laws (R. S., section 409d) contains no provision that the jury fees shall be a part of the costs, and the courts have held that unless there is such a provision in the statute the jury fees are not a part of the costs in the case. Therefore I am of the opinion that the jury fees in all prosecutions under section 9 of said laws should be paid by the county.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## SHERIFF—EXPENSE OF.

Expense incurred without legal authority by sheriff during riot may not be paid by county.

April 4, 1906.

HON. JOHN B. MCGREW, *Prosecuting Attorney, Springfield, Ohio.*

DEAR SIR:—Your communication dated March 26th, relative to paying certain expenses incurred by the sheriff of your county during the recent riot, by the county commissioners, is received.

In reply I beg leave to say in view of the holding of our supreme court that services performed by a public officer are presumed to be gratuitous unless the statute expressly provides payment for the same, I am of the opinion that the county commissioners would not be authorized in paying the expenses referred to in your letter. I agree with you that they should have authority to do so. I suggest to you that you advise the sheriff to present his claim to the claims committee of the general assembly. The service rendered was for the benefit of the state, and I see no reason why the state should not reimburse the officer.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## INHERITANCE TAX—COLLATERAL.

Devise made in consideration of existing legal obligation not subject to collateral inheritance tax.

April 5, 1906.

HON. N. H. NEWELL, *Prosecuting Attorney, Upper Sandusky, Ohio.*

DEAR SIR:—I have yours of April 4th, 1906, advising me that in a will recently probated in your county there is an item devising to one "as pay for her services and care all my property real and personal, etc.," and in the residuary

item a devise to the same person of "all other property not herein mentioned that I may own at the time of my death."

The question arising is whether or not these legacies are taxable under the provisions of the collateral inheritance tax law. The answer to this question depends upon whether there was at the death of the testator an existing legal obligation of an amount equal to the value of the property devised. So far as such legal obligation existed the provisions of the will are to be considered as satisfying such obligation and are accordingly not taxable. Where, however, no legal obligation existed under which the legatee could have enforced payment at law the legacy is deemed a gift, notwithstanding some moral obligation in favor of the legatee may have impelled testator in making distribution of his property. Upon a similar question it was held in *New York, Doty's Estate*, 7 Misc., 193:

"Unless some legal and enforceable claim exist against the testator by reason of them, a legacy stated in the will to be given in consideration of services rendered should be considered as a bounty, and not the payment of a debt, and is not exempt from taxation."

A Pennsylvania decision, 13 W. N. C., 99, reads as follows:

"Where the debt for which a legacy is given is one of legal obligation, and the legacy does not exceed the amount due, the latter, if accepted in satisfaction, being regarded as a payment and not as a mere bounty, is not subject to collateral inheritance tax. But this principle cannot apply where, as in the present case, no claim such as could have been enforced by suit exists, and where the legacy is a pure gratuity based upon a faithful performance of services, which is not already compensated, must have been rendered without expectation of reward and without liability on the part of the person receiving them."

I am of the opinion, therefore, that all of the property passing under the will submitted by you, is subject to the tax excepting such amount as may be sufficient to satisfy any existing legal obligations held by the legatee against the testator.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### PROSECUTING ATTORNEY—VOUCHER FOR SALARY OF.

Voucher for salary of prosecuting attorney under "Conroy act," 98 O. L. 160, need not be approved by county commissioners.

April 9, 1906.

HON. CHARLES C. KEARNS, *Prosecuting Attorney, Batavia, Ohio.*

DEAR SIR:—Your letter dated April 6th, is received. You inquire whether or not the monthly installments of the prosecuting attorney's salary, under the Conroy act, should be approved by the county commissioners before payment.

In reply I beg leave to say, in my opinion the voucher issued by the auditor for the monthly installment of the prosecutor's salary is a law voucher and does not require the approval of the county commissioners.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## SPECIAL SCHOOL DISTRICTS.

Acts creating special school districts unconstitutional.

April 9, 1906.

HON. N. H. McCLURE, *Prosecuting Attorney, Medina, Ohio.*

DEAR SIR:—Your communication dated April 7th in which you refer to the opinion rendered Hon. William G. Ulery, prosecuting attorney of Lucas county, found on page 111 of the last annual report of the attorney general, is received.

You inquire whether or not under section 3928 of the Harrison school code, special school districts created by special acts are legal districts?

In reply I beg leave to say that the supreme court has held, since the adoption of the Harrison school code, in the case of Bartlett et al. v. The State of Ohio, 73 O. S., 54, section 3928 of the Harrison school code to be unconstitutional and void in so far as it declares all special school districts to be legal and valid which have been created under the provisions of special acts of the general assembly.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## PROSECUTING ATTORNEY—COMPENSATION OF.

Salary of prosecuting attorney under "Conroy act," 98 O. L. 160, covers all services rendered township officers.

April 9, 1906.

HON. IRVIN McD. SMITH, *Prosecuting Attorney, Hillsboro, Ohio.*

DEAR SIR:—Your letter dated April 7th, relative to the construction to be placed upon section 1297 as amended by the Conroy bill is received.

In reply I beg leave to say that the salary provided in section 1297 includes payment for all services rendered township officers.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## SURVEYOR OF COUNTY—VACANCY IN OFFICE OF.

Where county surveyor elected in November, 1905, dies before commencement of term of office for which he was elected, incumbent of said office will continue therein until election and qualification of successor.

April 11, 1906.

HON. WILL P. STEPHENSON, *Prosecuting Attorney, West Union, Ohio.*

DEAR SIR:—Your letter of April 6th states that a county surveyor elected for Adams county in November, 1905, has died since his election. You desire



to know, first, whether there will be a vacancy in the office after the third Monday in September, 1906, and second, in what manner and for what term the office will be filled after that date.

I assume that the office is now held by a duly elected surveyor whose full term of three years will expire in September, 1906. But for the recent constitutional amendment there would be a vacancy on that day. (*State v. Brewster*, 44 O. S., 590) Article XVII of the constitution, however, provides that,

“The term of office of all elective county, township, municipal and school officers shall be such even number of years, not exceeding four years as may be so prescribed.”

It is not necessary to determine whether by virtue of section 8 R. S., the present incumbent would be entitled to hold over, since the third section of Article XVII expressly provides that every elective officer holding office when this amendment is adopted shall continue to hold such office for the full term for which he was elected and until his successor shall be elected and qualified as provided by law.

Article XVII, Section 1 provides that elections for state and county officers shall be held on the first Tuesday after the first Monday in November in the even numbered years.

The present incumbent will therefore continue in office until his successor shall be elected and qualified. His successor should be elected at the November election, 1906. His term of office will commence on the third Monday of September, 1907, unless a change in the date when the term shall begin has been provided for by the last legislature. The present surveyor will hold until that date.

I have not yet received copies of all laws passed by the recent legislature and cannot therefore advise you positively as to the date when the term of the surveyor to be elected in November will begin.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### POLICE OFFICERS — WITNESS FEES.

Police officers entitled to witness fees in criminal prosecutions in common pleas court; railroad policemen are “police officers.”

April 17, 1906.

HON. F. B. GOTT, *Ass't Prosecuting Attorney, Cleveland, Ohio.*

DEAR SIR: — I have before me your letter of April 6th, in which you request my opinion as to the construction of Section 1315 R. S. Your questions are,

First: Are police officers entitled to witness fees in criminal cases tried in the court of common pleas?

Second: Are railroad policemen, appointed under Section 3427 R. S., police officers within the meaning of Section 1315?

Section 1315 is as follows:

“No watchman or other police officer is entitled to witness fees in any cause prosecuted under any criminal law of the state, or any ordinance of a city of the first or second class, before any police judge or mayor of any such city, justice of the peace, or other officer having jurisdiction in such causes.”

The grammatical construction of the statute and its punctuation both indicate that the words "before any police judge or mayor of any such city, justice of the peace or other officer having jurisdiction in such causes" limit the words "any criminal law of the state" as well as the words "any ordinance of a city of the first or second class." If the limiting phrase "before any police judge, etc.," is read as though referring back to "ordinance" only, no reason could have existed for mentioning justices of the peace in this connection. No criminal prosecutions for violations of city ordinances can be brought before justices of the peace. Furthermore the words "police judge, mayor or other officer" comprehend all officers or tribunals before which prosecutions for violations of ordinances can be brought. Why should there have been an enumeration of certain officers if the statute was intended to prevent the allowance of witness fees to police officers in any criminal prosecution before any tribunal whatsoever? If such had been the intent of the legislature it would have been clearly expressed by so much of the statute as precedes the word "before." From the terms of the statute then, aside from any consideration of its purposes, it appears that the clause enumerating certain officers, refers to prosecutions for offenses under criminal laws of the State as well as under city ordinances, but was not intended to embrace all tribunals before which cases under such laws and ordinances might be tried. The court of common pleas, the chief tribunal before which prosecutions under criminal laws of the state are tried, is not specifically mentioned in this statute. That the legislature would have specified justices' courts and left courts of common pleas to be comprehended under the term "other officers having jurisdiction in such causes" is not probable if they intended prosecutions before such court to come within the purview of the statute. By the enumeration of certain officers of limited jurisdiction the phrase "other officers" is limited to other officers of the same class as those enumerated.

It seems to me that there is a basis in reason for the distinction apparently made between the right of police officers to receive witness fees in prosecutions before the officers enumerated, and their right to receive such fees in prosecutions in the court of common pleas. One purpose of the statute probably was to prevent police officers from making unnecessary arrests for the purpose of receiving witness fees. It is conceivable that there might be many instances of unfounded prosecutions before magistrates for the sake of the fees, but the same opportunity for commencing unfounded prosecutions before the court of common pleas does not exist.

Local police officers are called upon to testify before the police judges and mayors much more frequently than in the court of common pleas; but the legislature may have considered that instances in which police officers would be summoned from other counties would arise more often in trials in the court of common pleas than before magistrates. In such cases it is just that the police officer should receive his witness fees and mileage.

I am therefore of the opinion that Section 1315 does not deny to police officers the right to witness fees in criminal cases tried in the court of common pleas.

Railroad policemen appointed by authority of section 3427 R. S., are clearly police officers within the purview of Section 1315. They are commissioned by the governor "to act as policemen," and possess all the powers and are subject to all the liabilities of such officers while acting within their jurisdiction.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



## HUMANE SOCIETY — COSTS OF PROSECUTIONS.

Costs in humane society prosecutions not to be paid by county unless brought by agent of society or police officer.

April 18, 1906.

HON. EUGENE CARLIN, *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—Your letter of April 12th requests an opinion as to the liability of the county to pay the costs in a prosecution under Section 3718 and 3718a, R. S., where such prosecution is not brought by the agent of a humane society or association, but is prosecuted by a person not appointed as an agent of such association.

I am of the opinion that in cases prosecuted under the provisions of these statutes the county is not liable for costs, unless such cases are prosecuted by a duly appointed agent of a human society, or by a sheriff, deputy sheriff, constable, marshal, watchman or police officer when in the discharge of his official duties.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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## SCHOOL BONDS — MANNER OF SALE OF.

Board of education has discretion as to whether or not school bonds shall be sold by competitive bidding; if so sold, sale should be advertised.

April 20, 1906.

HON. H. W. ROBINSON, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR:—Your communication of recent date inquiring as to the manner of sale and advertisement, by a board of education, of school bonds, under Section 3922, is received.

In reply I beg leave to say that the language "which may be by competitive bidding at the discretion of the board" refers only to the sale and not to the advertisement. That is, the board is to use its discretion whether or not the bonds shall be sold by competitive bidding. Should the board determine that there shall be competitive bidding, then the advertisement should be made under Section 22b.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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## SURVEYOR OF COUNTY — COMPENSATION OF.

Repeal and re-enactment of Section 1183 R. S. by both of two acts in 98 O. L., pages 245 and 296, does not render either of said acts inoperative in so far as they are mutually consistent; compensation fixed by House Bill 449, 98 O. L. 296, for county surveyors, determines compensation of county surveyor, his expenses and the fees of his employes; House Bill 663, 98 O. L. 245, fixes the manner of appointment of deputies and employes; county engineers may not be employed.



April 20, 1906.

HON. KARL T. WEBBER, *Prosecuting Attorney of Franklin County, Ohio, Columbus, Ohio.*

DEAR SIR:—I have your letter of April 17th enclosing a letter from Mr. Walter Braun, County Surveyor, in which he asks a number of questions as to the construction of the laws recently enacted relating to the duties and compensation of county surveyors. You have requested my opinion on the questions presented.

Mr. Braun was mistaken as to the date when H. B. 663, became a law.

H. B. 449 and H. B. 663 were passed on April 2nd, signed by the president of the Senate on the same day, both presented to the governor on April 3rd and, not having been acted on by him within ten days, both became laws on the same day. Both provide, in their respective preambles, that Section 1183 R. S. "be amended to read as follows." The provisions of Section 1183 as amended by one act are totally different from the provisions of Section 1183 as amended by the other. Section 2 of H. B. 449 provides that "said Sections 1183, 4506 and 4664 are hereby repealed." Section 2 of H. B. 663 provides "that original sections 1163, 1166, 1167, 1178, 1181 and 1183 of the Revised Statutes of Ohio be and the same are hereby repealed." The question is presented whether both sections 1183, as amended by these acts, are in force, and if not, which one, if either, is the law?

If the two acts designated as Section 1183 are not inconsistent and if it does not appear contrary to the express intention of the legislature that both should be laws, then both should be given effect. Statutes enacted at the same session of the legislature should receive a construction, if possible, which will give effect to each. (Lewis's Sutherland, Section 268.) The mere fact that each purports to enact a complete statute, designated as Section 1183, does not, in my opinion, prevent effect being given to both, if such was the apparent intention of the legislature.

The general rule where two statutes repeal and re-enact the same original act, is stated in the syllabus of *State v. Brewster*, 39 O. S. 658:

"Where a section of the Revised Statutes is repealed and re-enacted in a changed form a subsequent statute which in terms again repeals and re-enacts the original section in still another form is, as a general rule, to be regarded as a repeal of the section in its amended form, and the section in its last form will take its place in the revision as part of the Revised Statutes."

In a later case, *The State v. Wood* (52 O. S. 601), the opinion of the court is as follows:

"That Sections 5189a and 5189b, Revised Statutes, as enacted April 6, 1892 (89 Ohio Laws, 222), are not repealed so far as they relate to Montgomery County, by the act of April 24, 1893 (90 O. L. 254), nor by any subsequent statute. The rule of construction stated in *State v. Brewster*, 39 Ohio St. 653, is a general one, and not to be applied so as to defeat the manifest intention of the legislature."

On reference to the acts referred to in the above opinion it appears that the later statute referred in the preamble to "Section 5189b as amended April 26th, 1890" and repealed "original Section 5189b as aforesaid." The act of 1893 applied to counties having cities of certain enumerated classes, but did not mention counties having cities of the second grade of the second class. The

act of 1892 did expressly apply to such counties. So in the present case H. B. 663, repealing "original Section 1183," did not repeal H. B. 449 amending such original section, even though enacted later, provided such does not appear to have been the intention of the legislature. It does not become important to determine which act first became a law if the legislature did not intend that one should repeal the other.

What was the intention of the legislature? The fact that the two acts were passed the same day, and that neither makes any reference in the repealing clause to Section 1183 "as amended," indicates that the acts were intended to stand together, rather than that one should replace the other.

H. B. 663 is the more comprehensive of the two acts, making many important changes in existing laws governing county surveyors, while H. B. 449 merely increases, in certain instances, the fees allowed by the statutes amended. The records of the House and Senate show that H. B. 663 was the last to pass. It was, therefore, the latest expression of the intention of the legislature. It repeals original Section 1183 which was the general statute fixing the compensation of county surveyors. Section 1183 as amended by H. B. 663 makes no provision whatever for the compensation of this officer. If, therefore, H. B. 663 repealed both original Section 1183 and Section 1183 as amended by H. B. 449, the act would, at the same time, impose new and important duties upon the surveyor and leave in force no general statute fixing his compensation. It does not seem likely that such was the intention of the legislature. I am, therefore, of the opinion that Section 1183 of H. B. 449 and Section 1183 of H. B. 663 are both in force and should be construed together as Revised Statutes Section 1183.

The words "all necessary assistants, deputies, draughtsmen, inspectors, clerks and employes in his office" in Section 1183 of H. B. 663 must be construed to refer to such employes as have a more or less permanent employment. This is indicated by the words "in his office," by the requirement that the compensation fixed by the surveyor shall be paid monthly out of the treasury, and by the fact that the per diem fees of such employes as chainmen, rodmen, markers, axmen and other hands who are often employed temporarily, are fixed by Sections 1183, 4506 and 4664. It is not in accordance with ordinary usage to speak of the laborer employed in connection with a single piece of work as "in the office" of the official employing him. Temporary employes may, in my opinion, be paid per diem fees and the amount so paid should not be considered a part of the aggregate sum fixed by the county commissioners out of which all permanent employes must be paid. Permanent employes attached to the office, compensated out of such fund, are, of course not entitled to any additional per diem fee when acting as markers, chainmen, etc.

I will now take up the questions presented in your letter of April 17th.

1. What statute now fixes the compensation of the county surveyor and what is the compensation now allowed by law to the county surveyor, and how may the same be paid?

The compensation of county surveyors is now governed by Sections 1183, 4506 and 4664 as amended by H. B. 449 and by original Sections 1171, 1177, 1192 and 1194. Section 1183 as amended by H. B. 449 was identical with original Section 1183 except that it increases the compensation of the surveyor to \$5.00 per day and allows necessary and actual expenses. It also fixes the compensation of carriers and markers at \$2.00 per day.

Section 4506 fixes his fees for services therein referred to, at \$5.00, and allows necessary and actual expenses for the time so employed. Chainmen,



axmen and rodmen receive \$2.00 per day for the time actually employed and other necessary hands \$1.75 each.

Section 4664 also fixes the surveyor's fees at \$5.00 and actual necessary expenses for services therein provided for. The fees of reviewers, chain carriers and markers are fixed at \$2.00 each.

The surveyor is no longer entitled to fees for copying records required by Section 1176.

Original Sections 1171, 1177, 1192 and 1194 are still in force. The act of April 25th, 1904, which partially repealed such sections, having been held unconstitutional. (*State v. Rogers*, 71 O. S. 203; *State v. Buckley*, 60 O. S. 273). But the provisions of Section 1171 fixing fees of chainmen and markers at \$1.00 is superseded by Section 1183, fixing their fees at \$2.00.

The fees of the county surveyor should be paid out of the same fund, and in the same manner, as heretofore.

2. What authority now exists under the statutes of the State of Ohio for the appointment of deputies in the office of the county surveyor? What is their compensation and how may the same be paid?

Section 1166 as amended by H. B. 663, contains no provision for the appointment of deputy surveyors; but Section 1183 as amended by the same act is as follows:

"On or before the first Monday in June of each year the county surveyor shall file a statement of the number of and aggregate compensation to be allowed for all necessary assistants, deputies, draughtsmen, inspectors, clerks or employes in his office, for the year beginning September first next succeeding, with the county commissioners of such county who shall examine the same and after making such alterations therein as may be just and reasonable, shall fix an aggregate sum to be expended for such year for the compensation of such assistants, deputies, draughtsmen, inspectors, clerks, or employes. The county surveyor shall appoint such assistants, deputies, draughtsmen, inspectors, clerks or employes as he shall deem necessary for the proper performance of the duties of his office and shall fix their compensation, but such compensation shall not exceed in the aggregate the amount so fixed by the county commissioners as herein provided, and the compensation after being so fixed shall be paid to such assistants, deputies, draughtsmen, inspectors, clerks or employes monthly out of the treasury upon the warrant of the county auditor out of the general fund."

Deputies are mentioned also in Sections 1178 and 1181 as amended. Deputies may, therefore, be appointed under Section 1183. They are further governed by the following Sections of the Revised Statutes.

Section 9. "A deputy or clerk, appointed in pursuance of law, shall hold the appointment only during the pleasure of the officer appointing him; and the principal may take from his deputy or clerk a bond, with sureties, conditioned for the faithful performance of the duties of the appointment; but in all cases the principal is answerable for the neglect or misconduct of his deputy or clerk."

Section 10. "A deputy, when duly qualified, shall have power to perform all and singular the duties of his principal."



Section 1183, *supra*, answers your question as to their compensation and the manner of payment.

3. What authority now exists for the employment of assistants in the office of the county surveyor and what compensation may legally be paid to such assistants, and how may the same be paid?

This question is answered by Section 1183, *supra*.

4. May the county commissioners now employ a county engineer under Section 845, or are all of the deputies of a county engineer now imposed upon the office of the county surveyor? If an engineer may be appointed, what compensation may be allowed him and how shall the same be paid?

Section 1166 clearly requires that all county surveying and engineering work shall be done by the county surveyor. The county commissioners have no power to employ any other engineer. As many engineers as are necessary to do all county work may be employed, but they must be employed as deputies or assistants, and compensated as provided by Section 1183, *supra*.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### PROSECUTING ATTORNEY—COMPENSATION OF.

Contract between county commissioners and prosecuting attorney for employment of latter as legal counsel terminated by enactment of "Conroy law" 98 O. L. 160.

April 20, 1906.

HON. ROBERT S. WOODRUFF, *Prosecuting Attorney, Hamilton, Ohio.*

DEAR SIR:—In response to your request by telephone, I herewith enclose you a typewritten copy of the Conroy bill fixing the compensation and duties of prosecuting attorneys. This law became effective April 16th.

The last section of the law provides the county commissioners shall, at their regular meeting in May, make an allowance under Section 1274 for the services rendered from the 1st day of January, 1906, up to the time of the passage of this act. In all counties where prosecuting attorneys have special contracts with county commissioners under Section 845, as amended, settlements should be made at the regular meeting of the county commissioners in May, for the services rendered under such contracts from the 1st day of January, 1906, up to the time of the passage of this act and such contracts should then terminate.

While Section 3 of the Conroy bill provides that existing contracts made by boards of county commissioners of any county in accordance with Section 845 Revised Statutes of Ohio, shall remain in full force and effect, yet the Conroy bill by imposing upon prosecuting attorneys all the duties involved by such contracts thereby avoids the effect of all such contracts made with prosecuting attorneys.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## COUNTY COMMISSIONERS — TRANSFER OF FUNDS BY.

County commissioners may, by proper proceedings, transfer balance in road fund to any other fund.

April 23, 1906.

HON. F. M. STEVENS, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:— Your communication dated April 21st relative to the transfer of funds by the county commissioners of your county is received.

In reply I beg leave to say that the county commissioners are authorized under Section (22b-2) and succeeding sections, by proceedings in the common pleas court, to transfer the public funds under their supervision from one fund to another in the manner therein provided.

In my opinion your county commissioners may, under the provisions of these sections, transfer the balances in the road fund raised under Section 4919 Revised Statutes, to any other fund they may desire.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## PROSECUTING ATTORNEY — SALARY OF.

Salary of prosecuting attorney under "Conroy act," 98 O. L., 160, cannot be drawn before date when same became effective.

April 23, 1906.

HON. LYMAN W. WACHENHEIMER, *Prosecuting Attorney, Toledo, Ohio.*

DEAR SIR:— Your communication dated April 21st, relative to the effect of the Conroy act upon prosecuting attorneys, is received. You say that by reason of the circuit court's decision holding the old prosecutors' law (sec. 1297) unconstitutional, you have received no compensation for the last 90 days.

If I understand your inquiry, you desire to know whether or not you can receive compensation under the Conroy act for the ninety days preceding its enactment. In reply I beg leave to say that compensation can only be drawn under the provisions of the Conroy act after April 16th, 1906. To attempt to extend the provisions of the Conroy act over a period of time prior to its enactment would be to make the law retroactive.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## TOWNSHIP DEPOSITORY.

Unincorporated banks may become township depositories.

April 25, 1906.

HON. C. J. FISHER, *Prosecuting Attorney, Millersburg, Ohio.*

DEAR SIR:— In response to your request for an opinion of this department construing section 1513, R. S., as amended March 31st, 1906, I beg to advise that

that section of the Revised Statutes should not be so construed as to limit the language "such bank, banks or depository within the county in which such township is located" to incorporated state banks and banks created under the national banking act. In my opinion, both incorporated and unincorporated banks, banking associations or trust companies would have the right pursuant to such act to compete at the bidding for township moneys. Such banks are, by sections 3817 and 3818, as amended by the act of April 23rd, 1904 (97 O. L., 266), and by section 2762, R. S., as amended by the act of April 23rd, 1904 (97 O. L., 279), recognized as banks or banking associations, and for the purposes mentioned in the act under consideration, should be extended the privileges conferred upon other banks, unless plainly excluded therefrom.

It is true that the state depository law, being the act of May 3rd, 1904, and the county depository law, being the act of March 31st, 1906, limit the right to bid for state and county funds to such banks as are incorporated under the laws of this state or organized under the laws of the United States, but the fact that the exclusive language used in those acts was not used in section 1513, R. S., as amended by the act of March 31st, 1906, does not militate against the view that unincorporated banks or banking associations may lawfully become depositories for township funds, while they may be excluded from bidding for both state and county funds.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### SPECIAL SCHOOL DISTRICT.

Special school district created by special act not a legal district.

April 30, 1906.

HON. N. H. McCLURE, *Prosecuting Attorney, Medina, Ohio.*

DEAR SIR:—Your communication dated April 25th, relative to the Leroy special school district, is received.

You say that Leroy special school district was created by a special act of the legislature some thirty or thirty-five years ago. It is, therefore, under the holding of the court in the Bartlett case not a legal school district, and if the district is not a legal one there would be no school directors either *de facto* or *de jure*. In my opinion proceedings should be instituted *de novo* under sections 3928 and 3929, R. S., for the creation of a special school district.

Very truly yours,

W. H. MILLER,

*Assistant Attorney General.*

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#### BRIDGES — PLANS FOR REPAIRS.

Plans for repairs on bridges, involving an expenditure of less than \$200, must be drawn; county commissioners may themselves draw such plans.

May 3, 1906.

HON. WM. T. DEVOR, *Prosecuting Attorney, Ashland, Ohio.*

DEAR SIR:—Your letter dated April 25th, relative to the letting of contracts for the repair of bridges, etc., by county commissioners, under section 798, R. S.,



as amended by the last legislature, is received. You inquire whether or not in letting a contract for the repair of a bridge that will cost less than \$200.00 the county commissioners are required, under section 795, to have complete and accurate plans made by a competent architect or a civil engineer. In reply I beg leave to say that while section 798, R. S., authorizes county commissioners to let private contracts without publication or notice thereof when the amount to be expended does not exceed \$200, yet section 795 expressly provides that

"In *all* cases when it becomes necessary for the commissioners of any county to erect or cause to be erected any public building or any sub-structures for a bridge or bridges, or when it is necessary to make any addition or alteration of the same \* \* \* before entering in any contract for the erection, alteration or repair thereof shall make or may procure some competent architect or civil engineer to make full, complete and accurate plans therefor."

The provision above quoted requires that before *any* contract is let full, complete and accurate plans therefor must be made, either by the commissioners or some competent architect or civil engineer. It is not necessary that the county commissioners employ an architect or the county surveyor to make said plans. The statute reads that the "*commissioners shall make or may procure some competent architect or civil engineer to make full, complete and accurate plans therefor.*"

The commissioners may, in any case, if they see fit, dispense with the services of an architect or engineer and make the plans themselves.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### MAD DOG — PRESENTATION OF CLAIM BY PERSON INJURED BY.

Proper presentation of claim for expense incurred by person injured by mad dog.

May 8, 1906.

HON. H. T. SHEPHERD, *Prosecuting Attorney, St. Clairsville, Ohio.*

DEAR SIR: — Your communication dated May 3rd relative to presenting a claim to the county commissioners under an act to provide for the protection of persons injured by mad dogs, ((4215a-1,) R. S.), passed by the legislature March 29, 1904, (97 O. L., 68), is received.

In reply I beg leave to say that it is necessary that the detailed statement provided for in section 1 of said act be presented within four months after the injury was received at a regular meeting of the county commissioners of the county where the said injury was received, before the county commissioners will be authorized to allow the claim and order its payment by the county treasurer.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

## COUNTY SURVEYOR — DEPUTIES AND ASSISTANTS — COMPENSATION OF.

Assistant engineers employed by county commissioners for definite period will continue to receive compensation fixed by contracts of employment during time provided in such contracts; deputy county surveyors entitled to per diem fees for services performed prior to September 1st, 1906; such fees should be charged in accordance with provisions of act in 98 O. L., 245; employment of deputies by county surveyor; supplementary to opinion of April 20th.

May 9, 1906.

HON. KARL T. WEBBER, *Prosecuting Attorney, Columbus, Ohio.*

DEAR SIR: — Your letter of May 7th requests an additional opinion as to the construction of House Bill No. 449 and House Bill No. 663, relating to county surveyors. The questions presented are substantially as follows:

1st. How shall assistant engineers employed by the county commissioners under section 845 be compensated for work done between the date of the passage of these acts and September 1st, 1906?

2nd. How shall deputies be compensated during said period and what law fixes the amount of their compensation?

3rd. May the county surveyor use the deputies and assistants, who shall be appointed and shall receive salaries under section 1183 as amended, in making surveys provided for by section 1187, R. S., and in making similar surveys for which he receives compensation from sources other than the county?

I will take up these questions in their order.

Assistant engineers with whom the commissioners had contracted for a definite period at the time the recent laws were enacted will continue to draw compensation in accordance with the terms of their contracts until the time contracted for has expired. No new contracts for the employment of assistant engineers should be made.

As the provision for the compensation of deputies by salaries does not become operative until September 1st, 1906, I am of the opinion that the surveyor is entitled to receive the per diem fee for the services of such deputies until that date. The fees prescribed by House Bill No. 449 should be charged for services performed since it became a law.

The surveyor may use deputies in any work which he is required by law to do.

Section 10, R. S., provides, "A deputy when duly qualified shall have power to perform all and singular the duties of his principal."

The surveyor will, of course, not be entitled to a per diem compensation out of public funds for the work done by his salaried deputies.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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PROSECUTING ATTORNEY — COMPENSATION OF.

Effect of enactment of "Conroy law," 98 O. L., 160; prosecuting attorney entitled to fee of 10 per cent. on collection made through suit in which judgment rendered prior to enactment of said law; not entitled to such fee when judgment



rendered subsequent to enactment of law; salary provided by said law may be received by prosecuting attorney in office at the time of enactment thereof, for balance of term then existing; contracts between prosecuting attorney and county commissioners for legal services terminated by enactment of said law.

May 15, 1906.

HON. JOHN B. MCGREW, *Prosecuting Attorney, Springfield, Ohio.*

DEAR SIR:—Your letter dated May 14th, relative to the operation of the Conroy law which provides compensation to prosecuting attorneys, is received.

You submit the following inquiries:

First. Are you entitled to 10% under section 1298 of the Revised Statutes of Ohio on the amount collected on a forfeited bond, suit being entered on the same January 31st, 1906, and judgment rendered and paid on April 7th, 1906?

Under section 1298, R. S., a prosecuting attorney is entitled to 10% on all money collected on fines, forfeited recognizances and costs in criminal cases. The suit being instituted and the money collected in this case before the Conroy law went into operation, you are entitled to receive from the county treasury 10% of the amount collected.

Second. You entered suit on a forfeited bond on March 20th; judgment was rendered and paid on May 2nd; are you entitled to 10% on the amount collected?

The Conroy law became effective on the 14th day of April, 1906. Under its provisions a prosecuting attorney can receive no compensation other than that provided in said bill. The collection being made in this case after the Conroy law went into operation, you are not entitled to the 10% in this case.

Third. Can prosecuting attorneys in office at the time of the passage of the Conroy law receive compensation under said law during existing terms?

Section 20 of Article II, of the Constitution, provides that no change in any law passed by the general assembly, fixing the term of office and the compensation thereof, shall affect the salary of any officer during his existing term.

At the time of the passage of the said Conroy law, the salary of prosecuting attorneys was fixed by section 1297 of the Revised Statutes of Ohio. Said section was, however, declared unconstitutional by the circuit court of Lucas county prior to the passage of said law on the ground that the salary so fixed by said section 1297, R. S., was not of uniform operation, thereby leaving the prosecuting attorneys without legal compensation for services rendered in criminal prosecutions. All compensation received by prosecuting attorneys other than that provided in section 1297 is in the nature of fees and the effect of the decision of the circuit court of Lucas county above referred to, was to deprive prosecuting attorneys of any salary.

I am therefore of the opinion that prosecuting attorneys in office at the time of the passage of the Conroy law, may receive the salary therein provided during their existing terms, for the reason that there was no legal statute providing a salary at the time of the passage of said law.

Fourth. May a prosecuting attorney, who has a contract with the county commissioners under Section 845, as amended, receive the compensation provided for in said contract, and also the salary provided in the Conroy law?

Section 3 of the Conroy law provides that,

“Existing contracts made by a board of county commissioners in any county in accordance with section 845 of the Revised Statutes of Ohio, shall remain in full force and effect.”

Under Section 845 the county commissioners were authorized to contract



with counsel other than the prosecuting attorney, and all such contracts made with such other counsel are by virtue of Section 3 of the Conroy law to remain in full force and effect.

Where the county commissioners under Section 845, as amended, have contracted with prosecuting attorneys, the Conroy law, by imposing upon prosecuting attorneys all the duties involved by such contracts, thereby avoids the force and effect of all such contracts made with prosecuting attorneys. In other words, all the duties devolving upon the prosecuting attorney under a contract made with the county commissioners by virtue of Section 845, as amended, are made official duties under the Conroy law, and for a prosecuting attorney to receive the compensation provided for in such contract and also to receive the salary provided in the Conroy bill, would in effect be to receive two compensations for the same service.

I am therefore of the opinion that in all counties where prosecuting attorneys have special contracts with the county commissioners under Section 845, as amended, settlement should be made at a regular meeting of the county commissioners for the services rendered under such contracts from the first day of January, 1906, up to the time of the passage of the Conroy law, and such contracts should then terminate.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### SHEEP CLAIMS — LIQUIDATION OF.

Pro rata payment of sheep claims out of insufficient funds liquidates such claims.

May 17, 1906.

HON. J. R. FITZGIBBON, *Prosecuting Attorney, Newark, Ohio.*

DEAR SIR:—Your letter of May 16th states the following facts:

“Some years ago, in 1902 and 1903, our county was unable to pay the sheep claims in full, so a percentage was paid. Now we have had an excess in the fund and the auditor wants to know whether he can declare another dividend, as it were, on the sheep claims.”

Section 4215 provides for the distribution of a fund arising from tax on dogs, and states:

“If such fund is insufficient to pay all such claims in full they shall be paid pro rata, and if after paying all such claims at the June session, there remains, etc.”

Section 1052 provides for annual reports to be made by county auditors to state auditors, in connection with this fund, and Section 177 stipulates that the state auditor shall also make annual reports to the secretary of the state board of agriculture. The intention appears, evidently, to provide for annual settlements of this fund and there is no provision for the payment in any succeeding year of any shortage which may occur.

It is my opinion that after the county commissioners have exhausted the fund and paid the claims pro rata, those claims are liquidated and cannot be paid out of any subsequent fund.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

#### BRIDGES — ISSUE OF BONDS FOR CONSTRUCTION OF.

County commissioners may not issue bonds for general bridge repairs, in amount exceeding \$15,000, without submitting question of such issue to vote of people; purpose of such issue must be distinctly specified in resolution.

May 18, 1906.

HON. H. W. ROBINSON, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR: — Your communication of May 12th enclosing copy of resolution of your board of county commissioners is received. You inquire whether this resolution is sufficient to legalize the issue of bonds proposed thereby.

#### RESOLUTION.

"Whereas, the board of county commissioners of Shelby county, Ohio, being this day in session, does find that the bridge fund of said county is inadequate and insufficient to properly construct and repair the necessary bridges on the public highways of said county, and,

"Whereas, said board finds it necessary to borrow money and issue the bonds of said county for the purpose of procuring funds with which to construct and repair the necessary bridges of the highways of said county. Be it therefore Resolved, that the sum of forty thousand dollars be borrowed for the purposes aforesaid, and that the bonds of this county be issued in said amount in denominations as follows: First 8-1500 each balance \$1,000.04 each, bearing interest at the rate of 4% per annum, payable semi-annually on the 1st days of January and July of each year, that the principal of said bonds be payable as follows: \$1,500.00 January 1st, 1907, \$1,500.00 July 1st, 1907, \$1,500.00 January 1st, 1908, \$1,500 July 1st, 1908, \$1,500.00 January 1st, 1909, \$1,500.00 July 1st, 1909, \$1,500.00 January 1st, 1910, \$1,500.00 July 1st, 1910, and \$2000.00 every six months thereafter.

"The auditor of said county is hereby directed to advertise said bonds for sale forthwith."

The power of the county' commissioners to borrow money for certain purposes is granted by the general assembly under Section 871 R. S. as follows.

"The commissioners \* \* \* for the purpose of erecting or acquiring \* \* \* any necessary building or bridge or for the purpose of enlarging, repairing, improving or rebuilding any such building or bridge \* \* \* may borrow such sum or sums of money as they deem necessary \* \* \* and issue the bonds of the county, etc.

"Provided, that in the case of bridges over streams on abandoned

turnpikes the provision of Section 2825 of the Revised Statutes shall not apply."

Section 872.

"The bonds so issued \* \* \* shall specify distinctly the object for which they were issued."

The limitation of this power is found in Section 2825 as amended April 26th, 1904 (97 O. L. 491).

"A county commissioner shall not levy any tax or appropriate any money for the purpose of building public county buildings, purchasing sites therefor or for lands for infirmary purposes, or for *building any bridge* except in case of casualty and except as hereinafter provided, the expense of which will exceed \$15,000.00 without first submitting to to the voters of the county the question as to the policy, etc."

The exception to the general power granted, therefore, is when the expenditure is to exceed \$15,000.00 but this exception does not apply, first, in cases of bridges over streams on abandoned highways (Sec. 871), second, in cases of casualty (Sec. 2825) or third, probably not in cases of improvement, enlargement or repair.

Commissioners of Defiance County v. Croweg, 24 O. S., 492, on page 500 the court say:

"It will be observed that the limitation of the general power of commissioners to build or repair bridges in the third section does not extend to the repair of bridges nor does it apply where an improved bridge has been destroyed by casualty."

The purpose of the proposed issue of bonds, as shown by the resolution submitted, is to provide a fund "to properly *construct and repair* the necessary bridges on the public highways of said county," and the reason given is simply that "the bridge fund of said county is inadequate and insufficient."

In my opinion, neither the purpose nor the reason as stated in said resolution is sufficient to take this case outside the general inhibition of the statutes, and the proposed issue of bonds would be unwarranted first, because in excess of \$15,000.00 and second, because the object is not distinctly specified.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### TEACHER — COMPENSATION OF.

If tuition fund of school district sufficient to pay each teacher minimum salary of \$40 per month provided by "Duvall law," such district may not receive state aid under said law.

May 18, 1906.

HON. A. P. MILLER, *Prosecuting Attorney, Pomeroy, Ohio.*

DEAR SIR:— Your letter dated May 15th, relative to the operation of the Duvall law is received. You say that in one of your school districts six teachers



are employed, two of whom receive \$55.00 per month; the salary of the other four averaging about \$25.00 per month; that the maximum levy will not create a tuition fund sufficient to raise the salary of the four teachers to \$40.00 per month and still pay the higher grade teachers \$55.00 per month. You inquire whether or not the higher grade teachers can be paid \$55.00 per month and state aid received to increase the salary of the lower grade teachers. In reply I beg leave to say section 1 of the Duvall law provides:

"That no person shall be employed to teach in any public school in Ohio for less than \$40.00 per month; and that, when any *school district* in Ohio has not sufficient money to pay its teachers \$40.00 per month for eight months of the year after the board of education of said district has made the maximum school levy authorized by law, three-fourths of which shall be for the tuition fund, then said *school district* is hereby authorized to receive from the state treasury sufficient money to make up this deficiency."

You will observe that the language used is "when any school district in Ohio has not sufficient money to pay its teachers \$40.00 per month," etc., clearly indicating that if the tuition fund is insufficient to pay each of the teachers in the district \$40.00 per month then no state aid can be received.

I herewith enclose you a copy of the law furnished me by the state commissioner of common schools.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### LOCAL OPTION — MUNICIPAL — DUTY OF SHERIFF PENDING CONTEST OF ELECTION IN CIRCUIT COURT.

Pendency in circuit court proceedings in error to judgment of probate court reversing decision of judges of special election under "Beal law," no stay of execution having been granted, does not vacate judgment of probate court; effect of said judgment having been to declare the result of said election to be in favor of the "drys", it is the duty of the sheriff to execute a writ under the "search and seizure act," 98 O. L. 12.

May 22, 1906.

HON. J. R. FITZGIBBON, *Prosecuting Attorney, Newark, Ohio.*

DEAR SIR: — Your letter of May 16th states that a local option election under the Beal law was held in the village of Hebron, January 19th, 1905; that the judges of election announced the result to be in favor of the wets; that the validity of the election was contested in a proceeding before the probate court under the provisions of Section (4364-20i), that the probate court decided that the result of the election was in favor of the drys and that a journal entry to this effect was filed in the court and a copy sent to the clerk of the village council. In a petition in error from the probate court to the common pleas court the judgment of the probate court was affirmed. A petition in error has been filed in the circuit court but no stay of execution has been granted or allowed by either the common pleas or circuit courts.

The status of the proceedings to contest the election being as above stated, affidavits were filed with the judge of the common pleas court under the search

and seizure act and a writ placed in the hands of the sheriff commanding him to levy upon the goods and chattels used in the conduct of the business at Hebron.

Your question is as to the duty of the sheriff under this writ.

The judgment of the probate court was not vacated nor was its force suspended by the filing of the petition in error in the circuit court to reverse such judgment. (State ex rel. Lewis v. Commissioners, 14 O. S. 515; State v. Commissioners, 31 O. S. 451, 456.)

Section 1 of the search and seizure act (98 O. L. 12), provides that when an affidavit is filed before a judge of the court of common pleas in accordance with the terms of said act such judge

“shall issue his warrant directed to any officer whom the complainant may designate, having power to serve criminal process, commanding him to search the premises described and designated in such complaint and warrant, and if such liquors are there found to seize the same with the vessels in which they are contained, and all implements and furniture used or kept for such illegal selling, furnishing or giving away of intoxicating liquors and them safely keep and make immediate return on said warrant.”

I am therefore of the opinion that the sheriff should seize all the intoxicating liquors found on the premises, and all implements and furniture used or kept for such illegal selling, and hold the same subject to the order of the court.

I assume, of course, that the affidavit and the warrant are in accordance with the terms prescribed by said act; and also that the probate judge was authorized under the provisions of Section (4364-20i), to render the judgment referred to in the statement of facts, supra. This opinion is solely as to the effect of the pendency of the proceedings in error on the duty of the sheriff in the execution of the warrant.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### ELECTIONS—DEPUTY STATE SUPERVISORS OF—COMPENSATION OF.

May 28, 1906.

HON. CHARLES F. HOWARD, *Prosecuting Attorney, Xenia, Ohio.*

DEAR SIR:—Your letter dated May 25th relative to the compensation of deputy supervisors of elections is received.

In reply I beg leave to say that section (2966-4), R. S., as amended 97 O. L. 221, provides that,

“Each deputy state supervisor shall receive the sum of \$3.00 for each election precinct in his respective county, and the clerk shall receive for his services the sum of \$4.00 for each election precinct in his respective county; and the compensation so allowed such officers during any year shall be determined by the number of precincts in such county at the November election of the next preceding year. \* \* \* Such compensation shall be paid quarterly out of the general revenue fund of the county treasury upon vouchers of the board made and certified by the chief deputy or the clerk thereof.”



A deputy supervisor of elections shall receive \$3.00 for each precinct in his county at the November election of the next preceding year. No provision is made for additional compensation for special elections.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

#### COUNTY SURVEYOR—EXPENSE OF.

County surveyor, when employed by the day, may receive actual expense only, not mileage; may not charge per diem fee for clerical work performed by assistant prior to September 1, 1906.

May 31, 1906.

HON. FRED H. WOLF, *Prosecuting Attorney, Wauseon, Ohio.*

DEAR SIR:—A county surveyor, when employed by the day on county work, is entitled to receive from the county treasury all *necessary* expenses *actually incurred* by him for livery, railroad fare and hotel bills.

Section 1183, as amended, gives the surveyor power to appoint assistants, deputies, draftsmen, inspectors, clerks and employes, but all such employes will, after September 1st be compensated by salaries. In the meantime, I am of the opinion, that the surveyor is not entitled to charge a per diem fee for assistants employed in clerical work. He is, I believe, entitled to charge a per diem fee for deputies employed by the day in engineering work.

Section 1166 R. S., under which existing deputies were appointed, indicates that such deputies must be surveyors. The compensation of the surveyor for clerical work performed before September 1st is governed by Section 1183, as amended by House Bill No. 449, which prescribes fees for different items of clerical work.

I believe the above answers the questions submitted in your letter of May 23, 1906.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### COUNTY SURVEYOR—EXPENSE OF.

County surveyor, when employed by day, may receive actual expense only, not mileage.

June 4, 1906.

HON. H. W. ROBINSON, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR:—I have received your letter of May 31st in which you request my opinion as to the right of county surveyors to charge for mileage, livery hire and meals in certain cases.

Section 1183, as amended by the last legislature, provides that when employed by the day the county surveyor shall receive "five dollars for each day and actual and necessary expenses." He cannot receive both mileage and actual expenses, nor can he elect which he will take. In such case he is only entitled to receive



the amount necessarily expended by him. The amounts actually paid for necessary livery hire and meals would be proper items of expense. When not employed by the day the surveyor is entitled to mileage at the rate of five cents per mile going and returning.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### LOCAL OPTION — MUNICIPAL — DISPOSITION OF FINE.

Fines and costs collected in local option prosecutions under indictment in common pleas court should be paid into county treasury.

June 1, 1906.

HON. W. R. ALBAN, *Prosecuting Attorney, Steubenville, Ohio.*

DEAR SIR:—Your letter of recent date is received. You inquire whether or not fines and costs collected under Section (4364-20g) of the Revised Statutes, wherein the prosecution is had under the state law by indictment and the fines collected in the court of common pleas, are to be paid into the treasury of the municipal corporation?

Section (4364-20g) is as follows:

“Money received from fines and forfeited bonds collected under the provisions of this act shall be paid into the treasury of the municipal corporation *wherein said fine was imposed or bond forfeited*, and shall be applied to such fund or funds as the council of the said corporation may direct.”

The act, of which this section is a part, commonly known as the “Beal Law,” provides for the prohibition of the sale of intoxicating liquors within the limits of municipal corporations, and it is evidently contemplated by Section (4364-20g) that the prosecutions for the violation of said act will be had in the municipalities wherein the offenses were committed. However, should a prosecution for a violation of this act be had in a municipality other than the one in which the offense was committed, the fine under Section (4364-20g) would be paid into the treasury of the municipality wherein the offense was prosecuted.

Neither Section (4364--20g) nor any other section of the act provides any direction for the disposition of the fine where the offense is prosecuted under an indictment in the court of common pleas. In as much as a prosecution in the court of common pleas cannot be considered to be in a municipal corporation, and there being no direction for the disposition of the fine when imposed by the court of common pleas, other than the general provision in Section 6802 R. S., I am of the opinion that the fine should be paid into the county treasury.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

VILLAGE SCHOOL DISTRICT—STATUS OF, WHEN VILLAGE HAS  
SURRENDERED ITS CORPORATE POWERS.

When a village has surrendered its corporate powers, the village school district becomes a part of the township school district wherein it is situated and the property thereof vests in the township board of education; village board of education may, subsequently to such surrender, levy and collect taxes to pay outstanding bonds of village district.

June 4, 1906.

HON. S. A. HOSKINS, *Prosecuting Attorney, Wapakoneta, Ohio.*

DEAR SIR:—Your letter dated May 26th is received. You say that the village of St. Johns, in your county, has properly and legally surrendered its corporate powers and has properly filed the certificate of such surrender with the county recorder; that prior to the dissolution of said corporation, the village district of St. Johns erected a new school building and issued bonds of the village district to pay for the same; that a portion of said bonds are still outstanding and unpaid; that prior to the incorporation of the village of St. Johns, the school district was a special school district and was changed to a village district by virtue of Section 3888 of the Harrison school code. You inquire as to the present status of said school district.

Section 3888 provides that:

“When a village surrenders its corporate powers the village school district shall be thereby abolished and the territory formerly constituting said village district shall become a part of the township school district or districts of the civil township or townships in which it is situated, and all school property shall pass to and become vested in the township board of education of the civil township in which it is situated; the provisions of Section (1536-4) of the Revised Statutes of Ohio in regard to the settlement of the affairs of a village that has surrendered its corporate powers shall also apply to the village school district and the board of education of the same,” etc.

The village district of St. Johns, therefore, becomes a part of the township school district of the civil township in which it is situated, and all the school property becomes vested in the board of education of said township district.

Section (1536-4) which authorizes the surrender of the corporate powers of a village provides:

“That such surrender of corporate powers shall not affect vested rights or accrued liabilities of such village, or the power to settle claims, dispose of property, or levy and collect taxes to pay existing obligations.”

This provision being made to apply to the abolishment of village school districts it follows, therefore, that while the village district becomes a part of the township school district and all the school property vests in said township district, yet the board of education of the village district is authorized to levy and collect taxes to pay the existing obligations against said village district.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## FRATERNAL ORDER—TAXATION OF PROPERTY OF.

Real and personal property, the title of which is vested in a local fraternal order, as distinguished from a grand lodge, is not exempt from taxation.

June 6, 1906.

HON. GEORGE E. YOUNG, *Prosecuting Attorney, Lebanon, Ohio.*

DEAR SIR:—In response to yours of June 4th I beg to say that Section (2732-3) Bates Annotated Statutes of Ohio, does not exempt from taxation real or personal property, the title whereof is vested in a local order. There is an exemption from taxation of real or personal property belonging to the grand lodge of free and accepted masons not operated with a view to profit.

I can advise you more particularly in the premises if furnished with more definite information of the case at hand.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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PROSECUTING ATTORNEY—EFFECT OF CONTRACT WITH  
COUNTY COMMISSIONERS FOR LEGAL SERVICES.

Contract between board of county commissioners and prosecuting attorney and law firm jointly not enforceable after enactment of "Conroy law," 98 O. L. 160, by prosecutor as against county but enforceable by commissioners against law firm.

June 8, 1906.

HON. ROBERT R. NEVIN, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—I have examined the contract made and entered into on the 11th day of January, 1906, by and between the county commissioners of Montgomery County, Ohio, party of the first part and Robert R. Nevin, prosecuting attorney of said Montgomery County, Ohio, and Bosler & Emanuel, attorneys-at-law, a partnership composed of Charles H. Bosler and Albert Emanuel, parties of the second part, relative to its enforcement under the new salary law fixing the duties and compensation of prosecuting attorneys.

Section 3 of the new prosecutors' salary law provides:

"Existing contracts made by boards of county commissioners of any county in accordance with Section 845 of the Revised Statutes, shall remain in full force and effect."

Under this section said contract is given full force and effect in so far as said force and effect is not avoided by other provisions contained in said prosecutors' salary law.

Section 1274 of said law expressly provides that the prosecuting attorney,

"shall also perform all duties and services as are required to be performed by legal counsel under Section 845."

The compensation therefor is fixed by Section 1297 of said law.



I have therefore held that a prosecuting attorney may not for the performance of the services enumerated in Section 845 receive the compensation fixed by Section 1297 of the prosecutors' salary law, and also the compensation provided for by contract between said prosecuting attorney and the county commissioners under Section 845 for the reason that it would in effect be receiving two compensations for the same services.

I am therefore of the opinion that while said contract, so far as the prosecuting attorney is concerned, can be given no effect after April 16, 1906, provided the prosecuting attorney thereafter receives the compensation fixed in the prosecutors' salary law, yet said contract is enforceable as against the law firm of Bosler & Emanuel.

I herewith return contract.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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#### MAD DOG — ALLOWANCE TO PERSONS INJURED BY.

County commissioners may allow car fare and hotel bill as part of "actual expense incurred" by persons injured by mad dog.

June 8, 1906.

HON. ALLEN R. MCBROOM, *Prosecuting Attorney, Logan, Ohio.*

DEAR SIR:—Your communication relative to the allowance made by the county commissioners to persons injured by mad dogs, is received. In reply I beg leave to say Section 1 of the act passed March 29, 1904, 97 O. L. 68, contains this provision:

"That any persons who shall be bitten or injured by a dog or canine, which at the time of the biting or injury to said person was suffering from or afflicted with what is known as rabies, \* \* \* may present a detailed itemized account of the *actual expenses incurred* and the amount paid for medical or surgical attendance."

This section further provides that upon the proper presentation of said account to the county commissioners, said commissioners may in their discretion order a payment of all or a part of said account. The portion of the section above quoted authorizes the person presenting said account to include therein, not only the amount paid for medical and surgical attendance, but also all additional expenses actually incurred and within my judgment would cover car fare and hotel bills.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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#### SURVEYOR — COUNTY — DUTY OF, TO DRAW CERTAIN PLANS.

County surveyor required to prepare plans and specifications only when in judgment of county commissioners plans are necessary, or when law expressly provides such plans shall be made.

June 8, 1906.

HON. F. M. STEVENS, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:—Your letter dated June 7 is received. You inquire whether or not under the new surveyors' act, 98 O. L., 245, it is necessary for the county surveyor to prepare plans and specifications as enumerated in section 1166 of said act for the repair of a certain culvert in Grafton township, your county, the total cost of which will not exceed \$45.

In reply I beg leave to say in my judgment the duty of the county surveyor to prepare the plans, specifications, details, estimates of cost, submission of contracts and the inspection of work authorized by said section 1166 is to be exercised only in those cases where in the judgment of the county commissioners said plans and specifications, etc., are necessary or the law authorizing the improvement expressly provides that such plans, specifications, details, estimates of cost, etc., shall be made.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*

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## SURVEYOR — COUNTY — FEES OF.

County surveyor not entitled to mileage when employed by the day prior to April 16, 1906; entitled to mileage when not so employed, prior to said date; county commissioners may employ county surveyor as draftsman under sections 2789a and 2789b, R. S.

June 9, 1906.

HON. C. H. HENKEL, *Prosecuting Attorney, Galion, Ohio.*

DEAR SIR:—Your letter of June 6th requests my opinion as to the right of a county surveyor to receive mileage in connection with work done prior to April 16th, 1906, the date when H. B. 449, amending section 1183, R. S., became a law.

Under section 1183, R. S., the county surveyor was not entitled to mileage when employed by the day, but was entitled to mileage at the rate of 5c per mile going and returning, when not so employed.

You also request my opinion as to the right of the county commissioners to employ a county surveyor as draftsman under sections 2789a and 2789b, as amended 97 O. L., 489. The sections of the statutes last referred to were not expressly repealed by the county surveyors' acts passed by the last general assembly and I am unable to find any provisions in the recent acts which are so inconsistent with these sections as to operate as a repeal by implication. I am therefore of the opinion that the county commissioners may employ the county surveyor as a draftsman in accordance with the provisions contained in sections 2789a and 2789b of the Revised Statutes.

Very truly yours,  
WADE H. ELLIS,  
*Attorney General.*



## SURVEYOR — COUNTY — COMPENSATION OF DEPUTIES AND EMPLOYES.

County surveyor has discretion to determine basis of compensation of deputies and employes; aggregate sum expended only within control of county commissioners.

June 9, 1906.

HON. H. T. SHEPHERD, *Prosecuting Attorney, St. Clairsville, Ohio.*

DEAR SIR:—Your letter of June 5th presents, substantially, the following question: Does section 1183, as amended 98 O. L., 245, require the county surveyor to fix a salary for each of his deputies and employes, which salary shall be paid monthly without regard to amount of work done by employe during the month, or may the compensation of such employe be fixed at a certain amount for each day's work, the employe to be paid at the end of the month for the time actually employed in county work?

I am of the opinion that the surveyor may compensate his employes either by salaries payable monthly, or by per diem fees, accordingly as the one method or the other may, in his judgment, be best adapted to secure to the county adequate service at the lowest expense. Clerks or draftsmen whose employment is continuous throughout the year could doubtless be most advantageously employed on a salary basis, while expert assistants whose services would be needed only on special occasions could probably be employed most economically if paid per diem fees for work actually done. The manner of compensation, however, is a matter to be determined by county surveyors.

Section 1183 requires the surveyor to file with the county commissioners a statement of the number of employes and the "aggregate compensation" to be allowed them during the year. The county commissioners, after making such changes in the statement submitted as they deem just, "shall fix an aggregate sum to be expended for such year for the compensation" of such employes.

While the statement submitted should indicate the number of employes and the probable amount to be paid to each to enable the commissioners to intelligently correct it and fix the aggregate compensation it is not, apparently, the intention of the statute to make such corrections as may be made in the details of his estimate, mandatory upon the county surveyor. He has still the power to appoint such assistants as he deems necessary for the proper performance of the duties of his office, and he may fix their compensation, subject only to the limitation that the aggregate compensation of all employes shall not exceed the amount fixed by the county commissioners. While the fact that payments are to be made monthly is a slight indication that all employes should receive salaries the fact that the word "compensation" is used argues strongly that it was the intention of the legislature that employes might be paid either by fees or by salaries. It is doubtful if any legislative assembly ever had more occasion to appreciate the distinction between the meanings of the words "compensation, fees and salaries" than the 77th General Assembly, which passed the act here considered. It would certainly be proper and advisable for the county surveyor to fix the rate of compensation of each employe of his office before the first day of September and to file a schedule of fees and salaries so fixed, with the county auditor.

The amounts actually expended by a county surveyor for necessary railroad fare, hotel bills, etc., while in the discharge of his duties, are proper items of expense within the meaning of section 1183, as amended.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## SURVEYOR — COUNTY — DEPUTIES AND ASSISTANTS — COMPENSATION OF.

Assistant engineers employed by county commissioners for definite period will continue to receive compensation fixed by contracts of employment during time provided in said contracts; expense of deputy county surveyors may be paid; expense of rodmen may not be paid; supplementary to opinion of May 9th.

June 13, 1906.

HON. JONATHAN E. LADD, *Prosecuting Attorney, Bowling Green, Ohio.*

DEAR SIR:—Your letter of June 4th requests my opinion on several questions presented in a letter addressed to you by the county surveyor of Wood county. These questions have already been considered in former opinions rendered by this department and the conclusions arrived at are as follows:

*First.* Assistant engineers with whom the county commissioners had contracts for a definite period at the time the recent surveyors' laws were enacted, will continue to draw compensation in accordance with the terms of their contracts until the time contracted for has expired.

*Second.* No new contracts should be made by the county commissioners for the employment of assistant engineers. Until September 1st, 1906, the engineering work of the county must be done by the surveyor, his three deputies and assistant engineers whose contract of employment has not terminated.

*Third.* The actual and necessary expenses of deputy surveyors may be paid.

*Fourth.* The law does not authorize payment of the expenses of a rodman, although he be a regular employe. A regular employe of the office who enters on his employment after September 1st and is employed under section 1183 as amended, would be entitled to receive his expenses on whatever work he was employed, but as pointed out in the printed opinion, with a copy of which you have already been furnished, the statute does not contemplate the employment of a rodman under this section. Rodmen regularly receive per diem fees of \$2.00 without expenses.

I enclose copy of an opinion with reference to the mode of compensation of deputies and assistants after September 1st, about which you made some inquiries when you were in the office last week.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## SCHOOL DISTRICTS — ABOLITION OF JOINT SUB-DISTRICTS.

Levy for school funds necessary for maintenance of building formerly in joint sub-district must be made by township board of education of township in which said building is located.

June 20, 1906.

HON. CHAS. C. UPHAM, *Prosecuting Attorney, Canton, Ohio.*

DEAR SIR:—Your letter dated June 18th relative to levying the tax for school purposes in a certain joint school district in your county is received. You say that part of the territory embraced in said school district is in one township and part in another township; that there is a contention between the auditor of Stark

county and yourself as to whether the county auditor or the board of education of Sandy township should levy the tax on the lands in Sandy township which forms a part of said district.

In reply I beg leave to say section 3923 of the Harrison School Code provides as follows:

“Joint sub-districts are hereby abolished and the territory of such districts, situated in the township in which the school house of the joint sub-district is not located, shall be attached for school purposes to the township school district in which said school house is located, and shall constitute a part of said township school district, and the title of all school property located in said joint sub-district, is hereby vested in the board of education of the township to which the territory is attached.”

Under this section the school board of the township district in which the school house is located will make the levy for the school fund and said levy will be placed by the auditor against all the territory included in said township district.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### LOCAL OPTION — MUNICIPAL — SALE OF INTOXICATING LIQUORS OUTSIDE OF MUNICIPALITY.

Sale of intoxicating liquors outside of municipality where plant is located regulated by law of territory in which sale made.

June 23, 1906.

HON. CHARLES S. SHEPPARD, *Prosecuting Attorney, Cambridge, Ohio.*

DEAR SIR:— The case of the Village of East Palestine v. Bower, referred to in your letter of June 22nd, was a prosecution for a violation of an ordinance passed by a municipality under section (4364-20), R. S. The statute, at the time this case arose, only gave municipalities power to regulate *places* where intoxicating liquors were sold. As amended, 95 O. L., 87, the statute gives municipalities power to regulate the selling, furnishing and giving away, as well as “places” where such acts take place. The difference between the statute construed in that case, and the provisions of the local option law is pointed out in paragraph 2 of the syllabus, which states that:

“While the township local option act authorizes townships to prohibit the sale of intoxicating liquors as well as the keeping of places where such liquors are sold within the township, municipalities by Sec. (4364-20), R. S., are only authorized to prohibit “places” where intoxicating liquors are sold within the corporate limits.”

The provision in section (4364-20b) that a manufacturer may sell, deliver and furnish his product in wholesale quantities to any person or persons residing outside of the limits of the municipality does not, in my opinion, confer any right on manufacturers situated in dry municipalities to make sales in townships which have been voted dry. Whether or not sales made by such manufacturers outside of



the municipality where the plant is located are legal, depends upon the law of the territory where the sale takes place, as determined by ordinance or local option election at such place.

I enclose copy of the opinion referred to in your letter.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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### ROADS — MACHINERY FOR.

County commissioners have no authority to purchase machinery for construction and repairs of roads.

June 25, 1906.

HON. W. R. GRAHAM, *Prosecuting Attorney, Youngstown, Ohio.*

DEAR SIR:—Your letter relative to the authority of the county commissioners to purchase a road roller and stone crusher to be used on the public highways of the county, the cost of which being between \$2500 and \$3000, is received.

I have carefully examined the statutes relative to the general powers of boards of county commissioners and also as to the specific powers of such boards in the construction and repair of public highways, and I have found no provision of law that would authorize county commissioners to expend public money for the purpose suggested.

Section 4735 of the Revised Statutes does authorize township trustees to furnish tools, implements and machinery for the construction, repair and maintenance of the roads in the several road districts within their townships, and further provides that such road machinery, when purchased, shall be delivered to the road supervisors. This section, however, can have no application to county commissioners. The powers and duties of boards of county commissioners in the construction and repair of the public highways are defined by statute, and such boards are without authority to expend public money for such construction and repair unless the statute expressly authorizes the expenditure.

I am therefore of the opinion that the county commissioners may not expend public money for the purchase of road rollers and stone crushers for the use of the county.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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### COUNTY COMMISSIONERS — COMPENSATION FOR DITCH WORK.

Limitation of section 897, R. S., as to total amount received by county commissioners per diem for ditch work not removed by provision of section 4506, R. S., as amended 98 O. L., 296.

July 10, 1906.

HON. HAMILTON E. HOGE, *Prosecuting Attorney, Kenton, Ohio.*

DEAR SIR:—Your communication dated July 9th is received. You inquire, first, whether or not section 4506, R. S., as amended, 98 O. L., 296, fixing the per



diem of county commissioners for ditch work, does in effect remove the limitation of \$300.00 as fixed by section 897, as amended April 21st, 1904.

Section 897 fixes the compensation of county commissioners and provides that said commissioners,

"Shall receive \$3.00 per day for the time they are actually employed in ditch work, the total amount so received for such ditch work not to exceed the sum of \$300.00 in any one year."

Section 4506, as amended, is only intended to fix the per diem county commissioners are to receive for services rendered on county ditches, and does not, in my judgment, in any way affect the \$300.00 limitation as fixed in section 897.

I herewith enclose copy of a portion of an opinion rendered the prosecuting attorney of Clark county, which, I believe, fully covers your second inquiry.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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DEPOSITORY — COUNTY — FORM OF SURETY COMPANY BOND REQUIRED BY LAW.

July 19, 1906.

MR. CHARLES GERHARDT, *Prosecuting Attorney, Circleville, Ohio.*

DEAR SIR:—The question presented by you regarding the form of surety bond to be executed by fidelity and indemnity insurance companies pursuant to the act of the general assembly of March 31st, 1906, (98 O. L., 274, amending secs. (1136-1-9), inclusive, R. S.) known as the "county depository law," I beg to say that when the depository or depositories have been provided for by the commissioners of the county and the awards of the money of the county have been made to the bank or banks that offer the highest rate of interest therefor, it is required that before such an award shall be binding on the county, there shall be executed by such bank or banks, a good and sufficient undertaking to be acceptable to the commissioners, as provided in section 4 of the act; or there can be deposited certain character of bonds as security for the money so awarded. In case of the execution of a bond by a fidelity and indemnity insurance company the statute in question does not contemplate the execution of a number of bonds dividing the liability of any one depository. This is made evident from the consideration of section 7 of the act.

In the event of more than one surety company being offered by such depository they should be required to execute a common bond, so that the liability thereon would be joint and not several. You will understand that pursuant to section 4 of such act the undertaking may be signed by at least six resident freeholders as sureties in the place of a surety company.

Very truly yours,

S. W. BENNETT,  
*Special Counsel.*

## PROSECUTING ATTORNEY — EXPENSE OF.

July 26, 1906.

HON. E. P. CHAMBERLIN, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR: — Your letter of the 21st inst. presents the question: When the prosecuting attorney serves boards of education, township trustees, etc., as required by section 1274, R. S., should such boards be charged with the expenses, if any, incident to such services or should the expense be charged to the county in the prosecutor's expense account?

Section 1298, R. S., as amended by the act of March 31, 1906, (98 O. L., 161), is as follows:

"In addition to his salary, the prosecuting attorney shall be allowed his reasonable and necessary expenses incurred in the performance of his official duties, or in furtherance of justice, which expense account shall be itemized and duly verified, and shall, if found correct, be allowed by the county commissioners and be paid monthly out of the general revenue fund of the county."

Without expressing a doubt as to whether more than one kind of official acts is embraced in this statutory classification, or, whether the general assembly meant to distinguish between "expenses incurred in the performance of official duties," and those incurred "in the furtherance of justice," yet, it seems reasonably clear, the new duties imposed by section 1274, R. S., upon the prosecutor, (98 O. L., 160), are "official duties," and being such the expenses incurred in their performance, when found correct by the county commissioners, should be paid monthly out of the general revenue fund of the county.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## TAXATION OF STOCK IN FOREIGN CORPORATION.

Resident of Ohio is liable for tax on shares of stock in foreign corporation, regardless of taxation of such stock in another state.

July 27, 1906.

HON. EDWIN E. POWER, *Prosecuting Attorney, Zanesville, Ohio.*

DEAR SIR: — I am in receipt of yours of the 26th inst., submitting for the opinion of this department thereon, the following question:

Mary J. Claypool, a resident of Muskingum county, inherited from her father capital stock of the Farmers and Traders State bank of Bonaparte, Ia., amounting to \$2,000. Her father died prior to the year 1896. Said stock is held by said bank, agent of Mary J. Claypool, and has not been in her possession otherwise than as above stated, since that time. The bank pays the taxes on its property in the state of Iowa. Under proceedings instituted by the county auditor and tax inquisitor



these bank shares were charged against her upon the duplicate of the auditor and she paid thereon taxes and expense of collection amounting to \$232.40. She has asked the board of county commissioners to allow her the sum of \$176.62 as erroneous and illegal taxes paid by her by reason of the premises.

The authorities cited by counsel representing the applicant do not sustain the contention made by her. Moss and others, executors, v. Bonn, auditor (6 O. C. C. R., 452) presents the question merely as to where executors of an estate are required to list the property of the estate. Haynes, J., states on page 453:

"The petition is brought for the purpose of restraining the county auditor from placing upon the tax duplicate of the county of Erie, certain personal property, belonging to the estate of Hawk, deceased, which it is claimed should be placed upon the duplicate by reason of the fact that J. O. Moss, one of the executors, is domiciled in the state of Ohio."

You will observe on page 458, from the authorities cited by the court, that no question was raised as to the power to tax *cestuis que trust* personally for any property they owned.

Here the question is presented, the ownership of the stock not being denied, as to the liability of Mrs. Claypool for taxes in this state, the estate of her father having been administered upon in the state of Iowa. The facts submitted show that although she is the owner of the bank shares they held by the bank for her. The question presented in the Bonn case, *supra* is, therefore not in point.

The case of Grant v. Jones (39 O. S., 506), is also cited by them. The court held in that case that for the purposes of taxation, under the peculiar facts in that case, Grant was not a resident of the State of Ohio, and the notes and mortgages owned by him were not taxable here. That decision was based upon the fact that Grant had never acquired a residence in the State of Ohio.

In the case submitted Mrs. Claypool's residence is admitted; her ownership of the shares of stock is admitted. Under the authority of Bradley et al. v. Bauder (36 O. S., 28) an owner of shares of stock in a foreign corporation, who resides in Ohio, is required to list the same for taxation, notwithstanding the capital of the corporation is taxed in the state where the corporation is located. This same principle has been followed in Grant v. Jones, 39 O. S., 514; in Myers v. Seaberger, 45 O. S., 235. It was also again announced by the supreme court of this state in Lee v. Sturgis, 46 O. S., 163, 173, and the principle was sustained in Sturgis v. Carter, 114 U. S., 521. The whole subject was again reviewed by our supreme court in the case of Landor, Treas., v. Burke, 65 O. S., 532, and here the former decisions were approved. This has also been followed in other states in many reported cases unnecessary here to cite.

For the foregoing reasons the application of Mrs. Claypool should be disallowed. The county commissioners have no authority to order a return of the taxes paid by her upon such bank shares.

Very truly yours,

WADE H. ELLIS,

Attorney General.



SPECIAL ACT — EFFECT OF CERTAIN ACT DETACHING LANDS  
FROM CITY OF LANCASTER.

July 27, 1906.

HON. F. M. ACTON, *Prosecuting Attorney, Lancaster, Ohio.*

DEAR SIR:—I have yours of July 25th, enclosing letter of the deputy auditor of state to the county auditor of Fairfield county, and of the county auditor of Fairfield county to yourself, inquiring the effect of the passage of three different acts detaching certain lands from the city of Lancaster and restoring them to the township of which they were originally a part. There is probably no doubt that under the recent holdings of the supreme court legislation of the character referred to would be held to be unconstitutional. It is not so clear, however, that such would have been the conclusion of the courts at the time these several acts were passed. Inasmuch as they were passed and acted upon by those affected thereby at a time when they might have been sustained by the courts it seems to me very doubtful whether the court will now disturb that action.

I advise that the board of review of the city of Lancaster cannot safely assume jurisdiction over such property and should not attempt so to do until a proper proceeding in the courts determines that the several acts mentioned violated the constitution and that no rights accrued thereunder in favor of the various property owners.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## CLERK OF COURTS — FEES OF.

Clerk of courts of county not entitled to additional fees for entering each day's attendance of witnesses.

July 30, 1906.

HON. JAMES GLENN, *Prosecuting Attorney, Coshocton, Ohio.*

DEAR SIR:—The question presented in your letter of July 19th was considered in an opinion of Attorney General Sheets, rendered March 31st, 1900. (Report of Attorney General, 1900, p. 63.) The opinion is as follows:

“HON. W. D. GUILBERT, *Auditor of State.*

“DEAR SIR:—Yours containing cost bill in case of Ohio v. Billow, is at hand. You ask the opinion of this office as to the legality of the fees and expenses therein charged, which the state is required to pay in order to aid the warden of the penitentiary in passing upon the items of the bill. We shall call attention to such items as appear upon the face of the cost bill to be incorrect.

“1. The item of \$133.12, which the clerk charges for entering the appearance of witnesses, is, in my opinion, incorrect.

“It appears upon the face of the cost bill that there were but two hundred and eighty-eight witnesses in attendance upon the trial of the case. Sixteen of these were excused and re-subpoenaed. Section 1260, R. S., provides that the clerk shall receive for ‘entering the attendance of each witness four cents.’ A witness appears in a case in obedience to a subpoena and remains in attendance until excused.

"The statute does not say that the clerk shall receive four cents for each day the witness attends. This is the method employed by the clerk in computing this item, which we think is wholly erroneous. We are aided in this construction not only by the plain words of the statute, but by the fact that the fees charged are wholly out of proportion to the services rendered, and it will not be presumed that the legislature intended the clerk should have more than reasonable fees for the services required. As there were two hundred and eighty-eight witnesses in attendance, sixteen of whom were excused, and re-subpoenaed, the clerk is entitled to four cents for entering the attendance of three hundred and four witnesses or \$12.16."

I do not think the fact that the judge required the witnesses to report to the clerk each day entitled the clerk to any additional fee. It was the duty of the clerk to keep some record of the daily attendance of the witnesses in the absence of such an order by the judge.

The uniform practice throughout the state has been in accordance with the ruling of Judge Sheets.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### ROADS—APPLICATION OF GENERAL FUND TO CONSTRUCTION AND REPAIR OF.

County commissioners may not apply part of funds raised by general levy to construction and repair of roads.

July 31, 1906.

HON. ROBERT S. WOODRUFF, *Prosecuting Attorney, Hamilton, Ohio.*

DEAR SIR:—I have yours of July 28th, advising me that the commissioners of Butler county desire my opinion upon their power to pay for a part of a certain road improvement out of the general county fund, the road fund having been wholly set apart as a bridge fund under Section 2824 of the Revised Statutes. I am not authorized by law to render opinions to county commissioners but treating the communication as a request from the prosecuting attorney under favor of section 208 of the Revised Statutes of Ohio, I beg to say that, inasmuch as the county levy provided for by section 2823 is made expressly for "purposes other than for roads, etc.," the proceeds of such levy cannot, in my opinion, be lawfully diverted to that purpose except in the manner provided by statute. Section (22b-2) et seq., Bates' Annotated Ohio Statutes affords a method by which a transfer may be made from one fund to another if the facts justify such proceeding and until such transfer is so made or until another levy has placed sufficient money in the road fund the commissioners cannot lawfully proceed with such improvement.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## EXTRADITION — ABANDONMENT OF CHILD.

Parent guilty of abandonment of child may be extradited from another state.

August 2, 1906.

HON. C. R. HORNBECK, *Prosecuting Attorney, London, Ohio*

DEAR SIR:— I am of the opinion that a parent guilty of the offense of abandonment of a child, as defined by Section (3140-2) R. S., may be extradited from another state.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## SPECIAL SCHOOL DISTRICT — DISPOSITION OF FUNDS OF.

Funds raised by levy in special school district created by special act revert to legal district of which territory embraced in such special district is a part.

August 2, 1906.

HON. A. C. DENBOW, *Prosecuting Attorney, Woodsfield, Ohio.*

DEAR SIR:— In answer to yours of July 31st, 1906, I beg to say that I do not understand that any officer of a special school district created by a special act of the general assembly, can have any claim against the supposed school district or against any one else for services performed, since such acts have been held unconstitutional. The proceeds received from any levy made by such a board should undoubtedly revert to the district of which such special district became a part by virtue of the decision holding such act to be void.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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ELECTIONS — BOARD OF DEPUTY STATE SUPERVISORS OF —  
EXPENSE OF.

Expense of chief deputy and clerk of board of deputy state supervisors of elections payable out of county treasury.

August 3, 1906.

HON. CHARLES F. HOWARD, *Prosecuting Attorney, Xenia, Ohio.*

DEAR SIR:— In response to your inquiry of June 30th, 1906, I beg to say that expenses incurred by the chief deputy and clerk of the board of deputy state supervisors of elections under Section (2966-30) Bates' Annotated Statutes, are not to be deemed the personal expenses of those acting as chief deputy and clerk and are, therefore, not covered by the compensation provided for by Section (2966-4). The chief deputy and clerk in performing the duties imposed by Section (2966-30) are acting as officers and representatives of the whole board and expenses incurred thereby are the expenses of the whole board and should be paid



out of the county treasury under that part of section (2966-4) which authorizes the payment of "all proper and necessary expenses of such board of deputy state supervisors."

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### TREASURER — COUNTY — FEES OF.

County treasurer entitled to 8/10 of 1% of the amount of interest collected under county depository act.

August 6, 1906.

HON. GEORGE C. BARNES, *Prosecuting Attorney, Georgetown, Ohio.*

DEAR SIR:— In answer to your inquiry of August 1, 1906, I beg to say that in my opinion the county treasurer is entitled under Section 1117 of the Revised Statutes to eight-tenths of one per cent of the amount of interest collected by him under the county depository act, 91 O. L., 403, 92 O. L. 353 and 93 O. L. 376. (R. S. (1136-1.))

Very truly yours,

W. H. MILLER,

*Ass't Attorney General.*

#### PROSECUTING ATTORNEY MAY SERVE AS MEMBER OF CITY BOARD OF EDUCATION.

Restriction of Section 3977 R. S. applies only to such boards of education as prosecuting attorney is legal adviser of.

August 7, 1906.

HON. E. P. CHAMBERLIN, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR:— Your letter dated July 20th, inquiring as to whether a prosecuting attorney can serve as a member of the board of education of a city district, is received. In reply I beg leave to say that I have been unable to find a copy of the letter to which you refer, but am of the opinion that the restriction in Section 3977 only applies to boards of education of which the prosecuting attorney is the legal adviser.

Very truly yours,

W. H. MILLER,

*Ass't Attorney General.*

#### DEPOSITORY — COUNTY — SECURITY REQUIRED TO BE OFFERED.

Indebtedness of municipality for construction of water works constitutes a part of "indebtedness" under county depository law.

August 7, 1906.

HON. B. F. WELTY, *Prosecuting Attorney, Lima, Ohio.*

DEAR SIR:—The question presented in yours of the 2nd inst., is whether an indebtedness of a municipality for the construction of waterworks constitutes part of the municipal indebtedness within the provisions of section 7, of the county depository law, passed April 2d, 1906 (98 O. L. 274, 279). By the terms of the so-called Longworth bonding act (95 O. L. 318), the indebtedness authorized by that act includes "erecting and purchasing water-works, and supplying water to the \* \* \* corporation and the inhabitants thereof." I know of no exemption of such indebtedness by which it should not be considered as municipal indebtedness.

Section 7 of the depository law provides that if the securities offered to the commissioners are those of a municipal corporation the indebtedness whereof does not exceed 10 per cent., the commissioners may accept the same in lieu of the undertaking. I am not otherwise advised than by your letter, that the total indebtedness of the municipality in question, including the water-works debt exceeds ten per cent., if so, the interest bearing securities of such municipal corporation cannot be accepted by the commissioners for the purposes of such deposit.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

## PROSECUTING ATTORNEY—COMPENSATION OF.

Salary provided by Section 1297 R. S., as amended by "Conroy act," 98 O. L. 160, covers service rendered by prosecuting attorney under Section 1277 R. S., in restraining misapplication of public funds.

August 7, 1906.

HON. H. C. HENKEL, *Prosecuting Attorney, Galion, Ohio.*

DEAR SIR:—Your letter dated August 2nd inquiring whether or not the compensation fixed in Section 1297 R. S., as amended March 31st, 1906, covers services performed by the prosecuting attorney under Section 1277, is at hand.

Section 1297 as amended after fixing the compensation a prosecuting attorney shall receive, further provides that:

"Such salary shall be in full and in lieu of all compensation consisting of salaries and fees heretofore paid to prosecuting attorneys for their services as such, and in full payment for all services required by law to be rendered in an official capacity on behalf of the county or its officers, whether the same relates to either criminal or civil matters."

In my opinion this provision covers the services rendered under Section 1277.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

## SECRET SERVICE OFFICER — EXPENSE OF.

Expense of secret service officer employed in criminal matters may be included in expense account of prosecuting attorney.

August 8, 1906.

HON. JOHN B. MCGREW, *Prosecuting Attorney, Springfield, Ohio.*

DEAR SIR:—On my return from Athens, Ohio, where I have been engaged for the past three weeks in the trial of the case of the State of Ohio v. Scott, I find a communication from you under date of July 16th, relative to the allowance of certain expenses incurred by you in the discharge of your official duties. In my judgment the provision in the Conroy bill providing that:

“the prosecuting attorney shall be allowed his reasonable and necessary expenses incurred in the performance of his official duties or in the furtherance of justice”

only applies to the personal expenses of the prosecuting attorney.

Section (470-1) provides for the appointment of a secret service officer for the prosecuting attorney's office whose duty it shall be to aid the prosecuting attorney in the collection and discovery of evidence to be used in the trial of all criminal cases and in matters of a criminal nature. No provision, however, is made for the expenses of said secret service officer. I am therefore of the opinion that the personal expenses of said officer, while in the discharge of his official duties, may be properly included in the expense account of the prosecuting attorney and paid under the provisions of the Conroy bill above quoted.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

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STENOGRAPHER — FOR PROSECUTING ATTORNEY — COMPENSATION OF.

Common pleas judge cannot be compelled to fix aggregate amount to be expended for compensation of stenographer for prosecuting attorney; such compensation may not be included in expense account of prosecuting attorney.

August 9, 1906.

HON. D. R. WILKIN, *Prosecuting Attorney, New Philadelphia, Ohio.*

DEAR SIR:—Your communication under date of August 8th, relative to the duty of a common pleas judge to fix an aggregate sum for the compensation of a stenographer in a prosecuting attorney's office under Section 1271 R. S. is received. You inquire whether or not this section invests the common pleas judge with any discretion in the matter. In reply I beg leave to say section 1271 provides:

“The judge of the court of common pleas in each county, or if there be more than one judge, then the judges of said court in joint session, *may*, immediately on the passage of this act, fix an aggregate



sum to be expended for the remainder of the year 1904, and *may*, on or before the first Monday in January of each year thereafter fix an aggregate sum to be expended for the incoming year, for the compensation of assistants, clerks and stenographers of the prosecuting attorney's office."

The word "may" as used in this section does, in my judgment, invest a discretion in the common pleas judge as to whether or not an aggregate sum be fixed for the purposes set forth in said section, therefore an action in mandamus would not lie to compel a common pleas judge to exercise the power conferred by said section unless there was an abuse of sound discretion.

You further inquire as to the authority of a prosecuting attorney to employ a stenographer and include the compensation therefor in his expenses under Section 1298 as amended in 98 O. L., p. 161. In my judgment the provision in Section 1298 allowing the prosecuting attorney his reasonable and necessary expenses incurred in the performance of his official duties, or in the furtherance of justice, refers to personal expenses only and does not include the compensation of a regularly employed stenographer.

Very truly yours,

W. H. MILLER,  
*Asst. Attorney General.*

#### COUNTY COMMISSIONERS — AUTHORITY OF, TO COMPROMISE CLAIMS AGAINST COUNTY.

County commissioners may compromise claim against county auditor for sums by them illegally allowed him.

August 9, 1906.

HON. E. P. CHAMBERLIN, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR:— Your letter of July 24th to the attorney general relative to bringing suit for the recovery of certain moneys from the county auditor unlawfully allowed by the county commissioners, was received in the absence of the attorney general and myself. On my return to the office after an absence of three weeks in Athens County, in the trial of the Scott case, the chief clerk handed me your letter saying that he had acknowledged receipt of the same.

As I understand from the resolution adopted by the county commissioners, said commissioners compromised for \$100.00 a claim of \$1,901.74 found to have been received by the auditor without warrant of statute, by the bureau of inspection and supervision of public offices. The inquiry you submit is whether or not the county commissioners were authorized under Section 855 R. S. to so compromise and adjust said claim; and if not, whether suit should be instituted to recover the full amount (\$1,901.74) from said auditor?

Section 855 of the Revised Statutes authorizes the board of county commissioners to compound for or release, in whole or in part, any debt, judgment, fine or amercement due the county, and for the use thereof, except in cases where either of the members of said board is personally interested. If the \$1,901.74 which was found to have been unlawfully received by said auditor belongs to the county then, in my judgment, under the provision of Section 855, as above quoted, the county commissioners would have the authority to release the claim in whole or in part.

I observe, however, that \$1,533.36 of this claim was money received by the

auditor during his term of office for writing ditch notices, and must have been paid by the land owners receiving benefits from the ditch improvement, therefore that part of the claim would be due to the individual land owners who paid the assessments, instead of to the county, and it might be that said land owners would have a right of action against said auditor for the recovery of the same. If any part of the claim of \$1,901.74 is due the state then I am clearly of the opinion that the county commissioners were without authority to release that portion of the claim.

I am inclined to the opinion that since the county commissioners have compromised and settled this claim under the power conferred in Section 855 R. S. the courts will be without authority to modify or set aside the same.

I herewith return the enclosure.

Very truly yours,

W. H. MILLER,  
*Asst. Attorney General.*

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#### HUMANE OFFICER—COMPENSATION OF. ISSUE OF BONDS FOR ROAD IMPROVEMENTS.

Salary of humane officer appointed and confirmed under Section 3718 R. S. covers all services; officer not entitled to informer's fees and costs under Section 3718a R. S.

Time for which bonds may be issued and levy made by county commissioners to pay for road improvements in counties where road commissioners are appointed.

August 10, 1906.

HON. JOHN H. CLARK, *Prosecuting Attorney, Marion, Ohio.*

DEAR SIR:—Your communication relative to the compensation of humane officers appointed under Section 3718 Revised Statutes, as amended, 98 O. L. 44, is received. In reply I beg leave to say Section 3718 as amended provides that humane officers appointed by humane societies must have the approval of the mayor of the city or village for which the appointment is made and all such officers appointed outside of any city or village must have the approval of the probate judge of the county. This section further provides that such officers so appointed and approved shall be paid monthly salaries by the council of the city or village for which the appointment is made or if outside a city or village by the county commissioners of the county. Therefore I am of the opinion that humane officers are not entitled to any compensation or fees under Section 3718a.

You also inquire whether the act entitled "An act to authorize the commissioners of any county to issue bonds to refund the indebtedness of boards of road commissioners appointed by the county commissioners therein, incurred on account of road improvements," passed by the last legislature, 98 O. L. 32, authorizes the levying of a tax for a greater number of years as stated in the petition for the one mile free turnpikes and whether it applies to pike petitions or assessments made after the passage of the act. This act provides that commissioners of any county in which road commissioners were appointed by said county commissioners, and indebtedness has been incurred on account of road improvements under color of any legislative act, are authorized, for the purpose of extending the time of the payment of such indebtedness, to issue the bonds of the county in such amounts and *for such length of time* as such county commissioners may determine. The act further provides that commissioners are author-



ized to levy a tax sufficient to pay the principal and interest of said bonds annually, on all of the taxable property of every kind within the limits of any election precinct or road district for which said road commissioners were appointed. The effect of this act is to authorize the commissioners of any county in which road commissioners have been appointed and in which indebtedness has been incurred on account of road improvements under color of *any legislative* act, to issue and sell bonds and to levy a tax annually to pay the principal and interest of the same.

I am unable to see the relevancy of Sections 4774 and 4777, Revised Statutes, to this act. These sections refer specifically to one mile assessment pikes, while the act in question applies to the indebtedness of road districts wherein the road commissioners have been appointed by the county commissioners.

Very truly yours,

W. H. MILLER,  
*Asst. Attorney General.*

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### SOLDIERS RELIEF FUND.

Authority of soldier's relief commission and county commissioners, respectively, as to levy for soldier's relief fund; compensation and expense of soldier's relief commission not payable out of proceeds of levy for said fund.

August 10, 1906.

HON. PETER J. BLOSSER, *Prosecuting Attorney, Chillicothe, Ohio.*

DEAR SIR:—In answer to yours of August 8th, 1906, I beg to say that Section 2 of the soldier's relief commission law, Section (3107-51), as amended in 94 O. L. 158, is unintelligible in some respects and so far as unintelligible probably does not repeal the section as it appears in 91 O. L. 84. The section as it appears in 91 O. L. 84, clearly gives the soldier's relief commission power to determine *not* the rate to be levied but the amount to be raised by the levy and it is the duty of the county commissioners to make such levy, not exceeding three-tenths, as will produce the amount that the relief commission has found necessary, and the county commissioners have no power to determine that a less amount will be sufficient. Whatever the amended section in 94 O. L. 158 may accomplish, its language will not justify the conclusion that the law was changed in this particular.

Second: The proceeds of the three-tenths levy are to be used for the exclusive purposes for which the levy was made and the compensation and expenses of the relief commission are not among those purposes. Such compensation and expenses are provided for by Section 5 of the act, Section (3107-54) Bates, and are payable out of the general county fund.

Very truly yours,

W. H. MILLER,  
*Asst. Attorney General.*

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### CORONER—DUTY OF.

Coroner of county in which is found body of person whose death is supposed to have been caused by violence, not coroner of county in which violence supposed to have been received, must hold inquest.



August 15, 1906.

HON. E. E. EUBANKS, *Prosecuting Attorney, Jackson, Ohio.*

DEAR SIR:—Your communication dated August 14th, submitting the following inquiry is received:

“A person having received violence in Vinton County, Ohio, afterwards dies from such violence in Jackson County, Ohio. Shall the coroner of Jackson County hold the inquest?”

Section 1221 of the Revised Statutes of Ohio provides:

“When information is given to any coroner that the body of a person whose death is supposed to have been caused by violence has been found in *his* county, he shall appear forthwith at the place where such body is, \* \* \* and proceed to inquire how the deceased came to his death, etc.”

Under this provision it will be the duty of the coroner of Jackson County to hold the inquest if he have information that death was caused by violence.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### PROSECUTING ATTORNEY—COMPENSATION OF.

Prosecuting attorney performing services under Section 1277 R. S., in restraining misapplication of public funds, before “Conroy law,” 98 O. L. 160, became effective, entitled to compensation therefor under Section 1278a R. S.

August 16, 1906.

HON. F. M. STEVENS, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:—In reply to your communication of August 6th, I enclose copy of an opinion furnished Hon. C. H. Henkel, prosecuting attorney, Galion, Ohio, which I believe covers your inquiry as to services of prosecuting attorneys under Section 1277 performed after the Conroy bill went into effect.

Prosecuting attorneys who have performed services under Section 1277 before the Conroy bill became effective would be entitled to compensation for said services under Section 1278a.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### TREASURER—COUNTY—FEES OF.

County treasurer not entitled to fee of 8/10 of 1% on proceeds of notes issued in anticipation of taxes.

August 21, 1906.

HON. D. F. OPENLANDER, *Prosecuting Attorney, Defiance, Ohio.*

DEAR SIR:—Your communication dated August 18th relative to the right of the county treasurer to receive 8/10 of 1% on money paid into the county

treasury as proceeds of certain notes issued in anticipation of taxes levied for the purpose of restoring an important bridge of your county as provided by Section 2824 of the Revised Statutes, is received.

I herewith enclose you a copy of an opinion furnished Hon. George C. Barnes, prosecuting attorney of Brown County, holding that the county treasurer is entitled to 8/10 of 1% on the interest collected by him under the county depository law. This opinion is based on the following provision found in Section 1117 R. S.:

“And on all other moneys collected on the first ten thousand dollars, 8/10 of 1%.”

Section 1117, however, contains this provision:

“But no compensation, percentage, commission or fees shall be allowed on any money received by him (treasurer) from the state treasurer or from his predecessors in office, or the legal representatives or sureties of such predecessors, or on any moneys received from the proceeds of the bonds of the county, or of any municipal corporation.”

While the word notes is not used in this provision, yet I am inclined to the view that the money received from notes issued in anticipation of taxes levied should be regarded the same as money received from bonds issued in anticipation of taxes levied, and that the county treasurer would not be entitled to the 8/10 of 1% upon such money.

Very truly yours,

W. H. MILLER,  
*Asst. Attorney General.*

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#### TREASURER — COUNTY — FEES OF.

County treasurer entitled to fee of 8/10 of 1% on money refunded to infirmary directors on unpaid store account, and by them paid into county treasury.

August 25, 1906.

HON. IRVIN MCD. SMITH, *Prosecuting Attorney, Hillsboro, Ohio.*

DEAR SIR:—Your communication dated August 24th, submitting the following inquiries, is received:

“Is the county treasurer entitled to any fees or percentage upon the interest accruing upon county deposits, under the act of April 2, 1906?

“Is he entitled to percentage or commission on unexpended balances returned by turnpike superintendents out of moneys advanced to them by the commissioners to repair the turnpikes?

“Is he entitled to percentage or commission on moneys refunded to the infirmary directors by way of an unpaid store account, and by the infirmary directors deposited in the treasurer’s office?”

In answer to your first inquiry I beg leave to say that the Attorney General, in an opinion furnished Hon. George C. Barnes, prosecuting attorney of George-

town, Ohio, under date of August 6th, 1906, held that the county treasurer is entitled, under Section 1117 of the Revised Statutes to 8/10 of 1% of the amount of interest collected by him under the county depository act. This holding is based on the following provision contained in Section 1117:

“And on all other moneys collected on the first ten thousand dollars eight tenths of one per cent.”

As to your second inquiry, I am unable to find the section of the statutes authorizing the county commissioners to advance money to turnpike superintendents. Please cite the section.

As to your third inquiry, I am of the opinion that the provisions of section 1117, quoted above, apply and that the treasurer is entitled to the percentage on the money refunded.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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#### PROSECUTING ATTORNEY—COMPENSATION OF.

Prosecuting attorney must prosecute actions for delinquent taxes brought by county treasurer at instance of auditor of state, under section 1104, R. S., without compensation other than that provided by section 1297, R. S., as amended 98 O. L., 160.

August 28, 1906.

HON. A. P. MILLER, *Prosecuting Attorney, Pomeroy, Ohio.*

DEAR SIR:—Your letter of August 25th, inquiring whether or not a prosecuting attorney is entitled to fees for collecting taxes when employed by the county treasurer under section 1104 of the Revised Statutes, is received.

In reply I beg leave to say I am unable to find any provision in section 1104 authorizing the county treasurer to employ the prosecuting attorney. The last paragraph of said section authorizes the auditor of state to direct the prosecuting attorney of the county to institute suit for the collection of taxes when the county treasurer refuses or neglects to do so, and provides that the prosecuting attorney shall receive for his services 25% of the amount collected. However the compensation provided in the prosecutors' salary law, passed by the last general assembly, covers all the services to be performed by prosecuting attorneys under section 1104.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### DEPOSITORY—COUNTY—SECURITY REQUIRED TO BE OFFERED BY.

Bond of surety company, offered under county depository act, providing for termination of liability of surety upon 60 days' notice, may not be accepted by county commissioners; nature of security permitted by act.



August 27, 1906.

HON. JOE T. DOAN, *Prosecuting Attorney, Wilmington, Ohio.*

DEAR SIR:—Your communication under date of August 23rd, relative to the power of the county commissioners, under the county depository act (98 O. L., 274) to accept a bond containing the following conditions: "Provided, however, and upon the following express conditions: That the American Surety Company of New York shall have the right to terminate this suretyship under this obligation by serving notice in writing of its election so to do upon said obligee, and thereupon the said American Surety Company of New York shall be discharged from any and all liability hereunder for any default of said The Citizens National Bank of Wilmington, Ohio, occurring after the expiration of sixty days after the date of service of such notice," is received.

In reply I beg leave to say the acceptance of the bond containing this condition by the county commissioners empowers the bonding company to terminate its liability upon giving sixty days' notice. This, in my opinion, the county commissioners may not do.

Section 6 of the act provides that after the award is made and the bond accepted the bank shall become the depository of the money of the county and *remain such for three years*. This period of three years, therefore, becomes the measure of the time for the bond and the liability of the surety thereon.

Section 4 provides the conditions that shall be in the bond, which are as follows:

"For the receipt, safe-keeping and payment over, of all money which may come under its custody, under and by virtue of this act, and under and by virtue of its proposal and the award of the commissioners, together with the interest thereon at the rate specified in the proposal, and the undertaking shall be further conditioned, for the faithful performance by the bank or banks or trust companies of all the duties imposed by this act upon the depository or depositaries of the money of the county."

Nowhere in the county depository act is there a provision authorizing the county commissioners to release the liability of the surety.

Section 6 of the act does, however, authorize the county commissioners, if they deem the same necessary, to require *additional security* to that already given.

Sections 5837 and 5838 of the Revised Statutes provide a method whereby a surety may be released from further liability upon his bond. These sections are restricted in their application to the bonds of certain officers enumerated therein. However, the existence of these sections clearly indicates that without specific legislation, the liability of the surety is, in point of time, co-extensive with the term. In as much as the power of the county commissioners in the acceptance of the bond under the county depository act, is statutory, and in the absence of an express provision authorizing a condition limiting the duration of the liability, I am of the opinion that the county commissioners may only accept such bond as binds the surety for the entire statutory period, and the county commissioners have no right to provide any condition in the bond whereby the surety's liability may be qualified.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

P. S.—The county depository act authorizes the acceptance by the county commissioners of three kinds of security. First, bonds such as are enumerated in

section 7; second, by a fidelity and indemnity insurance company authorized to do business within the state and having not less than \$250,000 capital; third, not less than six resident freeholders. In my judgment the county may accept any or all of these securities. That is, the commissioners may accept a fidelity and indemnity insurance company bond for part of the liability; bonds such as are enumerated in section 7 of the act as part of the liability, and freeholders' security for the remainder. I have no suggestion to make as to the advisability of the county commissioners accepting more than one of the three classes of surety enumerated other than the consequent confusion of liability if a suit were brought to enforce the same.

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#### RELIGIOUS ORGANIZATION — TAXATION OF REAL ESTATE OF.

Real estate owned by religious organization not exempt from taxation unless actually used for public worship; intention to erect house of worship to be used in future insufficient.

August 29, 1906.

HON. C. H. HUSTON, *Prosecuting Attorney, Mansfield, Ohio.*

DEAR SIR: — I have yours of August 27th, inquiring whether real estate purchased by a religious organization, upon which a house of worship is to be erected, is exempted from taxation.

An examination of section 2732 of the Revised Statutes discloses that only such grounds as are attached to houses used exclusively for public worship are exempt from taxation.

In my opinion, therefore, the real estate in question, is subject to taxation until the house of worship is not only erected but in actual use.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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#### DEPOSITORY — SCHOOL DISTRICT — SECURITY REQUIRED TO BE OFFERED BY.

Requirement of section 3968, R. S., that banks receiving funds of school district on deposit shall offer surety company bond unconstitutional.

August 31, 1906.

HON. C. J. FISHER, *Prosecuting Attorney, Millersburg, Ohio.*

DEAR SIR: — Your communication dated August 29th, inquiring whether or not a bank receiving the funds of a school district under section 3968 is compelled to give a guaranty company bond, as provided in said section, is received.

In reply I beg leave to say, the supreme court of Ohio, in the case of the State of Ohio ex rel. v. Robins 71 O. S., 273, held the act passed April 20th, 1904, commonly known as the "Crafts Bonding Act," unconstitutional and void, being in violation of Article I, sections 1 and 2, of the constitution. Judge Davis in the opinion says:



"It is contended on the part of the respondent that no citizen has an inalienable right to act as a legal representative or public officer; that the general assembly has power to provide for the descent and distribution of estates and for the appointment and qualifications of executors and administrators, including the giving of bonds; that the general assembly has power to prescribe the manner of election to a public office and the qualifications therefor; and that it logically follows from these premises that the general assembly has authority to determine the kind and sufficiency of the security to be given. The general soundness of this argument is not to be questioned; but it is pressing the conclusion too far to maintain that the legislature may go beyond the purpose of the security to be given, and may require things to be done which do not increase the protection of the obligee, which abridge individual rights without contributing to the general welfare, and which enrich a designated class of sureties to the exclusion of all others. Such a conclusion would lead not only to violation of article I, section 1, of our constitution, as already shown, but article I, section 2, also, which declares that 'government is instituted for the *equal* protection and *benefit*' of the people."

"The Crafts Bonding Act" provided that the execution of all bonds for the faithful performance of official or fiduciary duties or the faithful keeping, applying or accounting for funds or property, or for one or more of such purposes within certain exceptions, should be by a surety company or companies.

Section 3968 provides that,

"Such bank or banks shall give a good and sufficient bond of some approved guaranty company in a sum at least equal to the amount deposited."

Manifestly the limitation placed upon the right of a person to contract for a bond is the same in the provision quoted from section 3968, as in the provision contained in the "Crafts Bonding Act." Therefore, I am of the opinion that the provision in section 3968, requiring a bond of some "approved guaranty company" is unconstitutional; that the bank, in this instance, has a right, under the decision of the supreme court in the case cited, to tender a good and sufficient bond, other than the bond of an "approved guaranty company," and the board of education may not refuse to accept the same on the sole ground that the bond of an "approved guaranty company" is required."

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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#### INFIRMARY DIRECTORS—AUTHORITY OF, TO PROVIDE FOR DESTITUTE PERSONS OUTSIDE OF INFIRMARY.

Infirmary directors have discretionary authority to provide for destitute persons outside of infirmary.

September 6, 1906.

HON. W. R. ALBAN, *Prosecuting Attorney, Steubenville, Ohio.*

DEAR SIR:—Your communication dated September 4th, relative to the authority of infirmary directors to provide for destitute persons outside of the county infirmary in a county having an infirmary, is received.



In reply I beg leave to say the following provision in section 974 of the Revised Statutes: "and the directors are satisfied that said person should become a county charge, they shall forthwith receive said person and provide for him or her in said institution (infirmery), *or otherwise*," vests a discretion in the infirmery directors as to whether or not they shall provide for a person who is found to be entitled to admission to the county infirmery by furnishing necessary relief outside of said infirmery.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### STENOGRAPHER — FOR PROSECUTING ATTORNEY — COMPENSATION OF.

Compensation of stenographer for prosecuting attorney may not be included in his expense account.

September 7, 1906.

HON. F. M. STEVENS, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:— Your communication dated September 3rd, 1906, relative to the expenses of a stenographer for the prosecuting attorney under old section 1274, is received.

In reply I beg leave to say that section 1271 of the Revised Statutes, as amended, 97 O. L., 315, makes provision for the payment of stenographers to prosecuting attorneys. I am, therefore, of the opinion that where an allowance has not been made for a stenographer, as provided in section 1271, the prosecuting attorney may not include compensation for a stenographer in his expense account as authorized in the new salary law for prosecuting attorneys.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### TEACHERS — COMPENSATION OF.

Provision of "Duvall law," regulating employment of school teachers, as to state aid for weak districts, inoperative because of failure of general assembly to make requisite appropriations; remainder of said law effective.

September 15, 1906.

HON. HARRY W. MILLER, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR:— Your letter of September 8th desires my opinion as to the effect of the failure of the last legislature to make any appropriation for the payment to weak school districts of the sums to which they may be entitled under the provisions of the act of April 2, 1906 (98 O. L. 200).

The first clause of the act, "That no person shall be employed to teach in any public school in Ohio for less than \$40.00 a month" applies to all school districts within the state. The districts which would not be entitled to state aid in any event are not in any way affected by the lack of an appropriation. It is the duty of the boards of education in such districts to pay teachers at least \$40.00 per month.

The provision of the act as to state aid to weak districts is inoperative by reason of the fact that there is no fund now in existence out of which the payments provided for can lawfully be made. Boards of education in districts which are entitled to state aid may contract to pay teachers \$40.00 per month, but such contracts should expressly provide that the payment of the full salary is contingent upon a subsequent appropriation by the legislature to meet any deficiency in the tuition fund caused by compliance with the act above referred to.

There is, of course, no certainty that the legislature will make such an appropriation.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### PUBLICATION OF REPORT OF EXAMINERS OF COUNTY TREASURER. TOWNSHIP TRUSTEES—LIABILITY OF, FOR MEDICAL SERVICES FURNISHED TO POOR.

Probate judge has no authority to direct any publication of report of examiners of county treasurer other than that authorized by law.

Township trustees, having entered into contract with physician to furnish medical services to poor, not liable for such services so furnished by another physician.

September 15, 1906.

HON. JOHN H. CLARK, *Prosecuting Attorney, Marion, Ohio.*

DEAR SIR:—Your communication under date of September 7th, in which you submit the following questions, is received;

Has a probate judge, under Section 4367 of the Revised Statutes, authority to authorize the publication of the report of the examiners of the county treasury?

In my opinion the publication of the report of the examiners of the county treasury is governed by Section 1129 of the Revised Statutes. This statute is of later enactment than Section 4367, and since it prescribed the time and place of publication of this report, the county officials have no discretion under Section 4367 to make any different or further publication.

Second. When the trustees of a township have entered into a contract with a physician to furnish medical relief and medicines for the poor of their township, are the township trustees liable, in any case, for services performed by physicians other than the one regularly employed?

Under Section (1499-3) of the Revised Statutes the township trustees having entered into a contract, as authorized by Section (1499-1), are not, in my opinion, liable for medical relief other than that provided in the contract.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### ROADS—IMPROVEMENT OF BY TOWNSHIP—LEVY FOR. ELIGIBILITY TO OFFICE OF TOWNSHIP TRUSTEE.

Taxes for township road improvement should be levied against property within incorporated village located within such township.

Elector residing in incorporated village eligible to office of township trustee.

September 17, 1906.

HON. EDWARD GAUDERN, *Prosecuting Attorney, Bryan, Ohio.*

DEAR SIR:—Your communication under date of September 8th, relative to the levying of taxes for the improvement of roads, under the provisions of the act of April 22d, 1904 (97 O. L. 550), in a township having within its territory an incorporated village, is received. In reply I beg leave to say Section 18 of the act, (4686-18) R. S. provides:

“When the trustees of any such township have determined to improve any road, as herein provided, in order to provide for the payment of such improvement \* \* \* shall, in addition to the other road taxes authorized by law levy annually upon each dollar of valuation of all taxable property of such township an amount not exceeding 3 mills on each dollar of such valuation.”

Under this provision the taxes levied will be against all the property in the township, including all property within the incorporated village.

You also inquire whether or not an elector residing within an incorporated village is eligible to the office of township trustee. The jurisdiction of the township trustees covers the entire township including the municipal corporations therein. An elector residing within a municipal corporation is also a resident of the township which includes within its territory said municipal corporation and is, therefore, eligible to the office of township trustee.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### PROSECUTING ATTORNEY—SALARY OF—VOUCHER FOR.

Monthly voucher for salary of prosecuting attorney under Section 1297 R. S. as amended 98 O. L. 160, need not be approved by county commissioners.

September 18, 1906.

HON. GEORGE E. YOUNG, *Prosecuting Attorney, Lebanon, Ohio.*

DEAR SIR—Your letter dated September 17th, inquiring whether or not the monthly salary of the prosecuting attorney should be allowed by the county commissioners or paid upon the warrant of the auditor without such allowance, is received.

In reply I beg leave to say, Section 1297 of the Revised Statutes, as amended 98 O. L. 161, provides a fixed salary to the prosecuting attorneys of the various counties, based upon population, and further provides that such salary is to be paid in equal monthly installments out of the general fund of the county. I am, therefore, of the opinion that the voucher issued by the auditor for the monthly installment of the prosecutor's salary is a law voucher, and it is unnecessary for the prosecuting attorney to present his bill to the county commissioners for allowance before such voucher may be issued.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## BRIDGE — ON STATE LAND — REPAIR OF.

Power of county to expend money for repair of bridge across canal feeder on state land.

September 25, 1906.

HON. E. P. CHAMBERLIN, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR:—Your letter of September 18th states that several years ago a pike which runs across state lands for about a thousand feet and crosses the Miami river on state property, was constructed in Logan county. There was no express authority for the construction of this pike across the land of the state. The county built a bridge at the point where this road crosses the Miami. You desire my opinion as to the power of the county to expend money to keep such bridge in repair. Section (218-81) R. S. provides:

“In all cases where a new road or public highway is laid out by legal authority, in such direction as to cross the line of any canal or navigable feeder, authorized by the laws of this state, after the line of such canal or navigable feeder is permanently located and established, and in such manner as to require the erection of a new bridge over such canal or feeder, for the accommodation of said road, such bridge shall be constructed and forever maintained at the expense of the county in which such bridge is situated; provided, however, that no bridge shall be constructed across either of said canals or navigable feeders, without first obtaining for the model and location thereof, the consent, in writing, of one of the acting commissioners, or the principal engineer of the canal to be intersected by said road;”

This section indicates an intention to permit public highways to be laid out in such directions as to cross canals, provided only the crossings are made at places and in the manner approved by the canal commissioners. Such highways necessarily pass for a certain distance across state lands. Whether the highway runs for a hundred feet or a thousand feet over state land is not, in my opinion, material. The authority to fix the place where the line of the highway may cross the line of the canal cannot, however, be construed as a grant of authority to permit the construction of roads parallel to and along the banks of canals or reservoirs.

The bridge at Lewiston having been constructed by the county many years ago, without objection by the canal commissioners, I am of the opinion that the county may lawfully expend money for its repair. It may be that the county has no vested right to maintain the road in its present location. The board of public works may still have authority to require the approaches of the bridge to be changed so as not to injure the banks of the reservoir. On this point I express no opinion. For the existence or non-existence of power in the board of public works to order a change in the location of the approaches to the bridge does not affect the power of the county to expend money for its repair.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## PROSECUTING ATTORNEY — COMPENSATION OF.

Prosecuting attorney must prosecute actions for delinquent taxes brought by county treasurer at instance of auditor of state, under Section 1104 R. S., without compensation other than that provided by Section 1297 R. S., as amended, 98 O. L. 160.

October 1, 1906.

HON. F. M. STEVENS, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:—Your communication under date of September 20th, inquiring whether or not it is a part of the duties of the prosecuting attorney to begin and prosecute actions for delinquent taxes at the request of the county treasurer or county commissioners, and if so, whether or not the prosecuting attorney is entitled to compensation for said services other than that provided by the prosecutor's salary law, is received.

In reply I beg leave to say that section 1104 provides that when any taxes or assessments against lands or lots become delinquent, and when so requested by the auditor of state, the county treasurer shall institute a civil action in his own name for the collection of said delinquent taxes or assessments.

Section 1274 R. S., as amended by the last legislature, requires the prosecuting attorney to perform all duties and services to be performed by legal counsel employed under Section 845.

Section 845, enumerating the duties of legal counsel employed thereunder, provides that such legal counsel "shall prosecute and defend all suits and actions, which any of the parties above named may direct, or to which it or any of said officers may be a party, etc."

I am, therefore, of the opinion that actions brought by the county treasurer under the direction of the auditor of state for the collection of delinquent taxes on real estate must be prosecuted by the prosecuting attorney, and that his compensation for said services is fixed by section 1297 R. S., as amended by the last legislature.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## SURVEYOR — COUNTY — EXPENSE OF.

County surveyor entitled to actual expense under Section 4664, R. S.; employes not entitled to such expense.

October 4, 1906.

HON. W. R. ALBAN, *Prosecuting Attorney, Steubenville, Ohio.*

DEAR SIR:—In my opinion the surveyor alone is entitled to actual expenses under Section 4664 R. S. This construction is not only the most natural one to place upon the language used but is in accordance with the express provisions of Section 4506 R. S., as amended in the same act. The latter section clearly allows the surveyor a per diem fee of \$5.00 and expenses, but limits chainmen, axmen, rodmen and other employes to a per diem fee without expenses.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## IMBECILES — ADMISSION TO COUNTY INFIRMARY.

Imbeciles may be admitted to county infirmary.

October 11, 1906.

HON. FRANK M. ACTON, *Prosecuting Attorney, Lancaster, Ohio.*

DEAR SIR:—Your communication of recent date inquiring whether or not the county infirmary directors have authority to admit imbeciles to the county infirmary is received.

In reply I beg leave to say Section (971-1) of the Revised Statutes only prohibits the admission of insane and epileptic persons. I am, therefore, of the opinion that imbeciles are not excluded, and the infirmary directors have authority to admit them to the county infirmary.

Very truly yours,

W. H. MILLER,  
*Attorney General.*

## INHERITANCE TAX — COLLATERAL — APPLICATION OF.

Where devise is made in consideration of services to be rendered testator after date of will, so much of the value of such devise is subject to collateral inheritance tax as is in excess of value of services actually rendered.

October 23, 1906.

HON. LOUIS W. WICKHAM, *Prosecuting Attorney, Norwalk, Ohio.*

DEAR SIR:—I have yours of October 12th advising me that a will executed upon the day of the death of the testator devised to H "my farm situated in Peru township consisting of about sixty acres and all the live-stock on the farm, provided that he take \* \* \* of me the rest of my life." It appears that the devisee under this clause denies liability for the taxes imposed by the collateral inheritance law. In my opinion you should resist the application of the devisee for a release from the tax. Dos Passos on Inheritance Taxes, page 343 and following, fairly establishes the generally prevailing rule that bequests made in satisfaction of a debt are taxable so far as the bequests exceed the debt.

It is possible that the Ohio statute may be even broader than this general rule. A comparison will show that the Ohio statute and the New York statute are very similar in their terms. In the matter of Gould, 156 N. Y. 423, the court of appeals of the state of New York held that even where a bequest was made in consideration of services performed, so long as the legatee was claiming by virtue of the will, such bequest was subject to the tax. In other words that if a creditor desired to claim as such and escape the application of the tax he would have to prove his claim as a creditor, while if he was claiming by virtue of the will he could not avoid the tax imposed upon successions to property made by the will.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## VILLAGE SCHOOL DISTRICT—CREATION AND PROPERTY RIGHTS OF.

Incorporation of village creates village school district and *ipso facto* vests in board of education thereof all school property located within the limits thereof.

October 29, 1906.

HON. KARL T. WEBBER, *Prosecuting Attorney, Columbus, Ohio.*

DEAR SIR:—Your communication of recent date in which you submit the following inquiry, is received:

“The village of Grandview Heights was created some months ago. By its creation it included within its boundary a certain portion of the Franklin township school district, including one of their school-houses. The question at issue is simply this: By the mere fact of creating said village whose boundaries included this school building, does that fact alone place the control and title to said school building with said village, or is it necessary before said village can take possession of said school building to act according to Sections 3893 and 3894 of the Revised Statutes of Ohio?”

In reply I beg leave to say that Section 3893 applies to territory *annexed* to a city or village, while Section 3894 applies to the transfer of territory from one school district to another by agreement between the boards of education. Neither of these sections have any application to the territory of a village school district created by the incorporation of a village. In my opinion all school property included within the limits of the village school district vests in the school board of said district as a result of the incorporation of said village.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## PROSECUTING ATTORNEY—DUTY OF.

Prosecuting attorney is not required to prosecute bastardy proceedings.

November 9, 1906.

HON. C. H. HENKEL, *Prosecuting Attorney, Galion, Ohio.*

DEAR SIR:—Your communication of recent date inquiring whether or not prosecuting attorneys are required under Section 1273 of the Revised Statutes, as amended, to prosecute bastardy proceedings, is received.

In reply I beg leave to say while a bastardy proceeding is *quasi* criminal, the state is not a party to the action, and Section 1273 does not require prosecuting attorneys to prosecute such proceedings.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

ROADS — CONSTRUCTION AND REPAIR OF — EMPLOYMENT  
OF ENGINEER.

Road commissioners may not employ more than one engineer under Section (4757-7) R. S., as amended, 98 O. L. 292.

November 9, 1906.

HON. W. R. GRAHAM, *Prosecuting Attorney, Youngstown, Ohio.*

DEAR SIR: — Your communication under date of November 5th, relative to the authority of road commissioners to employ more than one engineer under an act to improve roads in certain districts, passed by the legislature April 26, 1898, and amended April 19, 1904, and April 16, 1906 (4757-7) R. S., 98 O. L. 292), is received.

In reply I beg leave to say this act provides that the commissioners shall employ a competent engineer and such assistants as they deem necessary. It further provides that the engineer shall not receive more than \$4.00 per day and that each assistant shall be allowed not more than \$1.50 per day. I am of the opinion that this law only authorizes the employment of one engineer at a compensation of \$4.00 per day, while the assistants employed may be engineers, yet they cannot receive more than \$1.50 per day.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## COUNTY COMMISSIONERS — TERM OF OFFICE OF.

Term of office of county commissioner elected November 6, 1906, begins on third Monday in September, 1907.

November 12, 1906.

HON. E. P. CHAMBERLIN, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR: — Your communication dated November 9th, inquiring when your county commissioner, elected November 6, 1906, will enter upon his term of office, is received.

In reply I beg leave to say the supreme court has held in the case of *State ex rel. Attorney General v. Mulhern*, 74 O. S., 363 that the provisions in Section 839 Revised Statutes, as amended, 98 O. L. 272, fixing the beginning of the term of county commissioners at the first day of December next after their election, to be inoperative for the reason that said provision is in irreconcilable conflict with the provisions of the first section of the act which extends the terms of certain county commissioners to the third Monday in September of the odd numbered years next succeeding the time when they would otherwise expire.

Therefore all county commissioners elected at the November election, 1906, will assume the duties of their offices on the third Monday of September, 1907.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## TURNPIKE DIRECTORS—COUNTY COMMISSIONERS MAY ACT AS.

Authority of county commissioners to act as turnpike directors not terminated by enactment of act in 98 O. L., 327.

November 14, 1906.

HON. H. W. ROBINSON, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR:—Your communication under date of November 9th, inquiring whether or not House Bill No. 385, as passed by the last legislature (98 O. L., 327) takes away the powers of the board of county commissioners to act as turnpike directors and abolishes the office of pike superintendent, is received. In reply I beg leave to say this act does not refer to the repair of turnpikes (see title), neither does the repealing clause repeal Section 4896 R. S. and succeeding sections which create the board of turnpike directors and enumerate their powers and duties. It therefore follows that the county commissioners still have authority to act as turnpike directors as provided in Section 4896 R. S. and succeeding sections.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## INSANE PERSON—ADMISSION TO STATE HOSPITAL.

When admission of indigent insane person to one state hospital for the insane is refused for the reason that the quota of the county in which such person resides is full, application to governor for transfer to another asylum may be made.

November 14, 1906.

HON. CHARLES C. KEARNS, *Prosecuting Attorney, Batavia, Ohio.*

DEAR SIR:—Your communication under date of November 12th, relative to the admission of an indigent insane person to the Dayton hospital for the insane, is received.

I regret to say that your former letters concerning this matter, addressed to this department, have not reached my desk.

I assume, although your letter does not so state, that the indigent insane person referred to has been refused admittance into the Dayton hospital for the insane for the reason that your county already has its full quota. If this be true, an application will have to be made to the Governor for an order of transfer to some other asylum within the state as provided in Section 701, Revised Statutes of Ohio.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## DEPOSITORY—COUNTY—SELECTION OF AGENT BY.

County depository established outside county seat may delegate authority to receive funds to agent within county seat.

November 16, 1906.

HON. A. B. CAMPBELL, *Prosecuting Attorney, Troy, Ohio.*

DEAR SIR:—Your communication under date of November 10th, submitting the following inquiry, is received.



"If a county depository is established outside of the county seat (but within the county) can such depository delegate authority to an agent in the county seat to receive the funds of the county from the treasurer and deposit them with the depository afterward?"

In reply I beg leave to say, Section 3 of the act authorizing county commissioners to provide depositories for public money and for other purposes, passed April 2nd, 1906, (98 O. L., 274, 279) contains the following provision:

"That if such award shall be to a bank or banks, or trust companies outside the municipality at which the county seat of such county is fixed, *the expenses and risks of making deposits therein* by the county treasurer, as hereinafter provided for, shall *be borne* by such bank or banks, or trust companies to which such award shall have been made."

The depository in this instance being outside the municipality at which the county seat is fixed, the risks of making deposits therein must be borne by such depository. I am, therefore, of the opinion that the county depository established outside of the county seat may delegate authority to an agent at the county seat to receive the funds of the county from the county treasurer, and that said county treasurer, his bondsmen, and the county will be protected from all responsibility for such funds as are turned over by the county treasurer to such duly constituted agent of said depository.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### SPECIAL ELECTION — SCHOOL CENTRALIZATION.

Special election upon question of centralization in township school district illegal and void.

November 19, 1906.

HON. WILLIAM T. DEVOR, *Prosecuting Attorney, Ashland, Ohio.*

DEAR SIR: — Your letter of November 17, with enclosures requests an opinion as to the effect of a vote against the continuance of centralization in a township school district, taken at a special election in August, 1906. I concur in the opinion of the secretary of state that the statutes do not authorize a special election upon the question of centralization.

The fact that an election was held in good faith and without objection, though on a day other than that fixed by law, may influence a court in determining whether it will interfere by writ of quo warranto or injunction, but does not affect the abstract question of the legality of the election. The election having been held without authority of law was of no effect.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## SURVEYOR — COUNTY — INSTRUMENTS.

County commissioners may not purchase instrument for county surveyor's use in private work.

November 20, 1906.

HON. CHARLES C. KEARNS, *Prosecuting Attorney, Batavia, Ohio.*

DEAR SIR:— Your communication under date of November 19th, inquiring when the county commissioner, elected November 16th, 1906, will begin his term of office, is received. In reply I herewith enclose you a copy of the opinion furnished Hon. E. P. Chamberlin, Prosecuting Attorney of Logan county, which fully covers your inquiry.

You also ask if the county commissioners are authorized under section 1181, Revised Statutes, as amended, 98 O. L., 246, to purchase a surveying instrument, or instruments, for the use of county surveyors in making surveys of lands, etc.

Section 1181, as amended, provides that the county commissioners shall furnish the surveyor's office with all necessary tools, instruments, books, blanks, and stationery for the proper discharge of the *official duties* of said county surveyor. In my opinion this provision only applies to such tools, instruments, etc., as are required in the discharge of official duties and does not include instruments to be used by the county surveyor in private work.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## DOG TAX — COLLECTION OF.

Dog tax may not be separated by county treasurer from other taxes levied on real property; he must accept payment of whole sum levied, or none.

November 27, 1906.

HON. E. E. EUBANKS, *Prosecuting Attorney, Jackson, Ohio.*

DEAR SIR:— Your communication under date of November 26th, inquiring whether or not it is lawful for a county treasurer to separate the dog tax, placed on the tax duplicate against the real estate upon which said dog is kept or harbored, as provided in House Bill 99, 98 O. L., 87, from the whole tax placed against said real estate, and permit the owner to pay the tax on said real estate less the dog tax, is received.

In reply I beg leave to say section 2833, as amended, 98 O. L., 87, contains this provision:

“Which per capita tax shall be levied upon and entered against the real estate upon which said dog is kept or harbored and *collected as are other taxes* upon real estate, etc.”

Under this provision the county treasurer is, in my judgment, without authority to distinguish between the dog tax and other tax assessed against any real estate and could not, therefore, at any tax collection period receive the taxes assessed against real estate unless the dog tax so assessed against said real estate is also included and paid.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

### LOCAL OPTION — RESIDENCE DISTRICT — SALES IN WHOLESALE QUANTITIES.

Intoxicating liquors may be sold and delivered in wholesale quantities to residences in local option district under "Jones law," by wholesale dealers located outside such district.

November 27, 1906.

HON. WILLIAM H. SHELDON, *Prosecuting Attorney, Marietta, Ohio.*

DEAR SIR:—In answer to your letter of November 20th I beg to advise you that in my opinion the act of March 22nd, 1906, (98 O. L., 68) does not prohibit the sale and delivery, by wholesale dealers located outside the local option district, of intoxicating liquors, in wholesale quantities, to *bona fide* residences in such district.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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### BRIDGE OVER CANAL — CONSTRUCTION OF.

It is the duty of county commissioners to construct bridge over canal within limits of municipal corporation.

November 27, 1906.

HON. H. W. ROBINSON, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR:—Your communication under date of November 21st, relative to the powers and duties of the county commissioners of your county to construct a bridge over the Miami and Erie Canal, such bridge to be constructed within a municipality and said municipality receiving no part of the bridge funds of the county, is received.

In reply I beg leave to say that in my opinion, under section 860 of the Revised Statutes, it is the duty of the county commissioners to pay for the construction of said bridge and to keep the same, when constructed, in repair.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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### DEPOSITORY — COUNTY — DUTY OF COUNTY TREASURER TO MAKE DEPOSITS.

It is the duty of the county treasurer to deposit daily in county depository collections made by deputy collectors in various parts of county.

December 1, 1906.

HON. H. T. SHEPHERD, *Prosecuting Attorney, St. Clairsville, Ohio.*

DEAR SIR:—Your communication under date of November 30, relative to the duties of the county treasurer, under section 8 of the county depository law, in making daily deposits in the county depository where taxes are being collected in different places in the county by collectors under authority from the county treasurer, is received.



In reply I beg leave to say section 8 provides that the treasurer shall "deposit \* \* \* to the credit of the county, all money in his possession, except such as may be necessary to meet current demands \* \* \* before noon of each business day." Under this provision it is the duty of the county treasurer to make the deposits daily in the county depository. I am therefore of the opinion that the daily collections made by deputy collectors should be either transmitted at once to the county treasury or placed to the credit of the county treasurer in the local bank or banks. The county treasurer should then, before noon of each day, in accordance with the provision of section 8 of said act, deposit in said county depository all monies, except an amount sufficient to meet current demands, in his possession in the county treasury or placed to his credit in the banks where the various collections are being made in the county.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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#### ROAD — CONSTRUCTION OF, THROUGH MUNICIPALITY.

County commissioners have power to construct road through municipal corporation.

December 4, 1906.

HON. H. W. ROBINSON, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR: — Replying to your inquiry of the 28th ult., I beg to say that the question which you propose as to the power of the county commissioners to construct a road through a municipality, seems to be fully answered by the supreme court of this state in the cases of Wells vs. McLaughlin, 17 O. 99, and Butman vs. Fowler, 17 O. 101. The more recent cases of Railroad Company vs. Commissioners, 35 O. S., 1-9, and of Commissioners vs. Railroad Company, 45 O. S., 401, 406, seem to maintain the view expressed in the former case, sustaining the power of the county commissioners so to do, and upholding the exclusive authority of the municipal officers to thereafter exercise jurisdiction over the road and keep it in repair.

The character of road, it is understood, is not such as was mentioned in the case of Laylin vs. the Commissioners, third circuit court 338, but such as would be laid out and constructed under chapter 2, title 7, volume 2, Revised Statutes.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### DEPOSITORY — SCHOOL DISTRICT — DISQUALIFICATION FOR INTEREST.

Bank not disqualified to act as depository for school funds because member of board of education is stockholder thereof.

December 4, 1906.

HON. C. J. FISHER, *Prosecuting Attorney, Millersburg, Ohio.*

DEAR SIR: — Your letter of December 30th states that there are three banks in the school district referred to and that one member of the board of education is the cashier and stockholder in one bank; another member the assistant cashier

and a stockholder of a second bank; while a third member is an assistant cashier of, but not a stockholder, in a third bank. This third member claims that the other two members are prohibited by section 3974, R. S., from voting in favor of the banks in which they are stockholders upon the question of selecting a depository for school funds.

Section 3968, R. S., directs that the board of education in the resolution by which they provide for the deposit of the funds shall determine the method by which bids shall be received, the authority which shall receive them, etc. The interest of a member of the board in a bank which might or might not become a bidder under such resolution, would certainly not disqualify him from voting on this preliminary resolution. The resolution having been passed it is not left to the board to determine, after the bids are in, which they will accept, for the statute itself directs that the deposits shall be made in the bank or banks situated in the district that shall offer at competitive bidding the highest rate of interest. The purpose of the statute is to procure the highest rate of interest by the fullest competitive bidding. If banks within the district, stockholders of which are members of the board of education, may not bid for the deposit it is evident that competition would be greatly restricted and, in many cases, there would be no eligible depository in the district.

If section 3974 is applicable at all it would render voidable all contracts between a bank and a school board on which there was a single member who was also a stockholder in a bank, regardless of whether his vote was necessary to pass the resolution. (*Bellaire Goblet Co. v. Findlay*, 5 O. C. C., 418.)

That rule applied to the present case would render two of the three banks of the district clearly ineligible and, as a necessary consequence, would prevent the letting of the contract to the third bank, unless banks outside the district were also permitted to bid, since there could be no competitive bidding within the district if only one bank therein was eligible to bid.

My opinion therefore is that a bank is not disqualified to act as a depository of school funds by reason of the fact that one of its stockholders or officers is a member of the board of education controlling the fund.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### PROSECUTING ATTORNEY — COMPENSATION OF — STENOGRAPHER FOR.

Compensation of prosecuting attorney provided by section 1297, R. S., as amended by "Conroy law," 98 O. L., 160, covers services rendered township officers.

Compensation of stenographer for prosecuting attorney may not be included in his expense account under section 1298, R. S., as amended by same act.

December 10, 1906.

HON. EDWARD B. FOLLETT, *Prosecuting Attorney, Marietta, Ohio.*

DEAR SIR: — Your communication under date of December 7th, relative to the compensation of prosecuting attorneys for services rendered township officers under section 1297, R. S., as amended, also as to allowance of reasonable and necessary expenses incurred in the performance of official duties under section 1298, as amended, is received. In reply I beg leave to say that section 1274 of the Conroy



bill makes the prosecuting attorney the legal adviser for all township officers and the compensation provided in section 1297 covers services rendered township officers.

The following language used in section 1298 of said law,

“his reasonable and necessary expenses incurred in the performance of his official duties, or in furtherance of justice,”

is, in my opinion, to be construed to include the *personal* expenses of prosecuting attorneys only and cannot be made to include compensation paid stenographers. Section 1271, R. S., provides a method whereby prosecuting attorneys may compensate stenographers under an allowance made by the common pleas court.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### SURVEYOR — COUNTY — DUTY OF, TO MAKE PLANS, ETC.

County surveyor must make all *necessary* plans, specifications and estimates for all public improvements undertaken by county.

December 18, 1906.

HON. ISRAEL M. FOSTER, *Prosecuting Attorney, Athens, Ohio.*

DEAR SIR:— In reply to your letter under date of December 12th, relative to the duties of the county surveyor under Section 1166, as amended, (98 O. L. 245) I beg leave to say the opinion furnished the prosecuting attorney of Lorain county, referred to in your letter, was based upon the view that the amendment to Section 1166 contemplates the county surveyor shall perform all the duties that have heretofore been performed by civil engineers.

The word “shall” as used in said Section 1166, as amended, means in my judgment that while heretofore county commissioners have been authorized in the construction of certain public improvements to employ a civil engineer to draw the necessary plans and specifications, make the necessary estimates and inspect and superintend the construction of the improvements, hereafter all such plans, specifications, estimates of costs and forms of contracts for the construction or repair of all bridges, culverts, roads, drains, ditches and other public improvements shall be made by the county surveyor, and that the county surveyor shall be responsible for the inspection of the same.

I do not believe that in cases where by reason of the nature of the improvements, plans, specifications and inspection are unnecessary, the county surveyor is authorized under said section to perform said services at a needless expense to the county.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

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#### TEACHER — COMPENSATION OF, FOR ATTENDING TEACHERS' INSTITUTE.

Provision of contract of teacher with board of education that no compensation shall be received for attending teachers' institute invalid



December 18, 1906.

HON. B. F. WELTY, *Prosecuting Attorney, Lima, Ohio.*

DEAR SIR:—Your letter of December 12th states that on August 20th, 1906, the board of education of Perry township entered into a contract for the employment of a teacher for the ensuing school year. At the time the contract was signed the teacher had already attended the teachers' institute. You request an opinion as to the validity of that clause of the contract which provides that the teacher shall receive no pay for attending the institute.

The supreme court in the recent case of *Beverstock v. Board of Education* (O. L. R. Vol. 4, No. 33, p. 42) construes section 4091 R. S. as follows:

"The same construction of language will control cases where a teacher is not under employment at the time the institute is held. In his case, he is to be paid by the board next employing him after such institute, provided the term of said employment begins within three months after such institute closes. When he so becomes employed his rate of compensation is fixed and on presentation of the proper certificate, showing that he had attended the preceding institute for a week, his compensation for that week is ascertainable and his right to receive it complete, if his term of employment begins within three months after said institute closes."

If contract provisions similar to the one in the contract you have submitted, were valid, it would be within the power of boards of education to nullify the statute by always inserting such clauses in contracts of employment. The statute is not, in form, a grant of power to boards of education, nor is it merely directory. It is mandatory and apparently intended to encourage the attendance of teachers' institutes by guaranteeing extra pay for such attendance. I am therefore of the opinion that the clause referred to is of no effect.

In compliance with your request I enclose herewith a copy of the former opinion to Hon. E. A. Jones.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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PROSECUTING ATTORNEY—DUTY OF.

It is not the duty of prosecuting attorney, in enforcement of criminal law, to perform services of a detective; provision for employment of secret service officer.

December 27, 1906.

HON. A. O. DICKEY, *Prosecuting Attorney, Gallipolis, Ohio.*

DEAR SIR:—Your communication under date of December 20th, in which you inquire as to your duty as prosecuting attorney to make personal investigations of reported violations of the criminal law, is received. In reply I beg leave to say the general duties of the prosecuting attorney in the enforcement of the criminal law are fixed by Section 1273 of the Revised Statutes of Ohio. In addition to that the prosecuting attorney is required to sit with the grand jury during its investigations. No place in the law is it made specifically the prosecuting attorney's duty to perform the services of a detective. Section (470-1) provides

for the appointment of a secret service officer for the prosecuting attorney's office whose duty it shall be to aid the prosecuting attorney in the collection and discovery of testimony to be used in the trial of all criminal cases and in matters of a criminal nature. Just how far a prosecuting attorney will go on his own behalf in performing the duties of a secret service officer, or a detective, in ferreting out crimes and offenses, is a question for the individual prosecutor to determine.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### ROADS—REPAIR OF.

Township trustees have no authority to provide fund for road repairs after time for making levy for road taxes is past; provision for state aid from state highway commissioner.

December 27, 1906.

HON. IRVIN MCD. SMITH, *Prosecuting Attorney, Hillsboro, Ohio.*

DEAR SIR:—Your communication under date of December 20th, in which you say that the trustees in many of the townships in your county have made no levy for road repairs for the year 1907, and inquire whether or not there is any law under which said trustees can provide a fund for road repairs in 1907, is received. In reply I beg leave to say the time for levying road taxes for the year 1907 is now passed and I know of no action the township trustees may take at this time to provide a fund for road repairs to be used the coming year.

Each county of the state is, however, entitled to state aid for the repair of roads. This aid is obtainable through the state highway department. I suggest that you take the matter up with Hon. Sam Huston, Commissioner of Highways, and it may be that Highland county is entitled to receive her pro rata share of the appropriation.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### STENOGRAPHER—FOR PROSECUTING ATTORNEY—COMPENSATION OF. PROSECUTING ATTORNEY—COMPENSATION OF.

Compensation of stenographer for prosecuting attorney may not be included in his personal expense account.

Prosecuting attorney entitled to receive compensation under contract for legal services with county commissioners entered into prior to enactment of "Conroy law," 98 O. L. 160, for services rendered under such contract prior to time when said law became effective, but not for such services rendered after such time.

December 27, 1906.

HON. HARRY W. MILLER, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR:—Your communication under date of December 22d, relative to stenographers' compensation under Section 1271 is received. In reply I beg leave to say the enactment of the prosecutors' salary law does not in any way affect

the appointment or the compensation of stenographers for Prosecuting Attorneys, as provided in Section 1271. A prosecuting attorney is not, however, authorized to draw the compensation due a stenographer under a said section in his own name. Said section provides that the compensation shall be paid to the stenographer out of the county treasury upon warrant of the county auditor out of the general fund.

You further inquire as to your right to compensation upon certain contracts made between you, as prosecuting attorney and the county commissioners, for the defense of certain damage cases, said contracts having been entered into prior to the enactment of the county prosecutors' salary law.

In answer to this inquiry I would say you are entitled to compensation under said contracts for all services rendered before said salary law went into effect. Your compensation under the new salary law covers the services you may have performed under said contracts since said salary law became effective.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### MAYOR'S COURT—ALLOWANCE BY COUNTY COMMISSIONERS TO CITY SOLICITORS FOR PROSECUTIONS IN.

Mayor's court is not a "police court," within meaning of Section 137 M. C.; county commissioners have no authority to make allowance to city solicitor for prosecutions conducted therein.

December 26, 1906.

HON. HENRY M. HAGELBARGER, *Prosecuting Attorney, Akron, Ohio.*

DEAR SIR:—Replying to yours of the 22d inst., I beg to say that in an opinion rendered by my predecessor under date of February 3d, 1903, it was held that a mayor's court was not a police court as used in Section 137 M. C. In the opinion thus expressed I concur.

I am further of the opinion that county commissioners have no authority to make an allowance to the city solicitor, or assistant city solicitor, pursuant to the provisions of the above quoted section, except in those cities which have a police court as distinguished from a mayor's or municipal court.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*



## ( Miscellaneous. )

## VEHICLE TAX — MUNICIPAL — APPLICATION OF, TO UNITED STATES PROPERTY.

Municipal corporation may not levy and collect vehicle tax on property of United States.

September 26, 1906.

COL. WORTHINGTON KAUTZMAN, *Assistant Adjutant General, Columbus, Ohio.*

DEAR SIR: — On September 20th, you referred to me a communication from Capt. Harold M. Bush, in which he requests advice as to the power of the city of Columbus to assess and collect a vehicle tax on four gun carriages, the property of the United States. He also requests information as to what course he should pursue in case an attempt should be made to enforce the collection of this tax by the arrest of himself or his subordinates.

In reply I beg to advise you that the city of Columbus is entirely without authority to assess or collect a tax of any sort on property belonging to the United States and used for government purposes. I do not anticipate that any attempt to enforce the collection of the tax will be made but in case an officer should attempt to arrest Capt. Bush for non-payment of the tax on the property mentioned I would advise that he submit to the arrest as he could at once obtain his release through a writ of habeas corpus.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## ABSTRACT OF TITLE TO CERTAIN REAL PROPERTY.

December 6, 1906.

HON. A. B. CRITCHFIELD, *Adjutant General, Columbus, Ohio.*

DEAR SIR: — I have examined the abstract of title to the south-west quarter of the south-west quarter of Section No. 21, township No. 7, range No. 16, Erie township, Ottawa county, the property of Charles Brier.

The abstract fails to set forth the certificate to which reference is made, to the effect that the south half of the south-west quarter of Section 21, etc., was entered on December 16th, 1833, by Nathan Kirk. If the records of the general land office show that such is the fact, there was no defect of title in Nathan Kirk.

In the deed from Henry Kleinhaus and wife to Artebanees Kirk, there is a reference to a mortgage executed to James Dunham from the said Henry Kleinhaus and wife. The abstract fails to set forth this mortgage or any cancellation or release thereof. If the same were never recorded it would not amount to a lien upon the property. The abstract should state whether or not this mortgage appears of record.

The inaccuracy of the description of the property conveyed by the deed from Isaac Stephens to Valentine Gutschalk, repeated in the deeds shown in the two succeeding sections of the abstract, is corrected in the deed of Hannah Walters and Fred Walters to William E. Hyde, and is of no consequence because of the fact that William E. Hyde is shown to have obtained title to the whole tract of forty acres through the conveyance from Artebanees Kirk. The abstract

fails to show any cancellation or release of the mortgage from Charles Brier and wife to W. E. Hyde.

The certificate does not specify as to whether an examination has been made in the United States circuit or district courts for pending suits or judgments, nor does it specifically state that an examination has been made for taxes and special assessments.

Subject to the exceptions above noted I am of the opinion that the abstract shows a good title to the property as described to be in Charles Brier.

From the general certificate at the end of the abstract, I assume that there is no record of any mortgage from Henry Kleinhaus and wife to James Dunham. I am informed that the mortgage from Charles Brier and wife to W. E. Hyde has been cancelled.

Upon the foregoing assumption I beg to advise you that a good and sufficient deed from Charles Brier will pass perfect title to the premises in question.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### COMMON PLEAS JUDGES—STATUS OF.

Common pleas judges are state officers.

January 29, 1906.

HON. R. R. KINKADE, *Toledo, Ohio.*

MY DEAR JUDGE:—Your letter of Saturday is just at hand. There is, in my judgment, no sound basis upon which a contention could be founded that common pleas judges are not state officers.

Section 1, of Article IV of the Constitution declares that "the judicial power of the state is vested in a supreme court, circuit court, courts of common pleas," etc.

In the matter of their jurisdiction, their compensation, their removal and the appointment to fill vacancies, they are clearly to be regarded as serving the state. The test of whether one is a public officer or not is determined by the answer to the further question of whether or not he has conferred upon him some portion of sovereign power; and the question as to whether he is a state officer, a county officer or a municipal officer is answered by the further question as to whose servant he is. This is not always determined by the manner of his appointment or election. Our courts have held frequently that officers appointed by the governor, or some other state authority, are county officers, and therefore that the acts requiring such appointment are unconstitutional since county officers must be elected by the people of the county. So our courts have frequently held that officers appointed to serve in some local capacity and paid out of the county or a municipal treasury, are nevertheless state officers. For example, police commissioners appointed by the governor were held to be an arm of the state; so election officers, under the present election laws, are deputy state supervisors, and so even boards of review for municipalities, who are appointed by the state board of appraisers and assessors, serve only the city and are paid by the city.

In other words, the way to determine whether or not one is a state officer is by considering all the facts and circumstances connected with the creation of the office, the duties to be performed, the way the officer is paid, the manner of his selection and removal, as well as the sub-division of the state whose electors may be permitted to choose him. Clearly the common pleas court of Ohio is established as a branch of the judicial department of the state government.



The members of the court serve the whole state. They are paid by the state. They may be removed by the state, and when a vacancy occurs it is filled by the state. The division of the state into judicial districts; and the election of the judges as well as the performance of the duties within certain sub-divisions, are all mere matters of convenience for the better performance of the court's functions.

Certainly it would not be said that the judges of the supreme court of Ohio were not state officers if they were elected from judicial districts instead of from the state at large. Certainly it would not be said that the judges of the court of appeals of Kentucky were not state officers because they are elected from judicial districts, the sole purpose of such divisions being to distribute representation upon the court throughout the entire state. - The sole purpose of the judicial sub-divisions with respect to the common pleas courts of the state is to distribute such representation and insure, as far as possible, a trial court for the convenience of all localities.

I do not think that there is any danger of this suggestion that common pleas judges are not state officers being seriously considered in any quarter. Certainly such a view would not attract any lawyer who has examined the subject.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### FISH AND GAME LAWS—RELEASE OF PRISONERS CONVICTED AND SENTENCED UNDER.

County commissioners have no authority to release prisoners convicted and sentenced under fish and game laws except upon payment of fine or service of term; costs made in prosecutions under said laws must be paid by county.

April 18, 1906.

COL. J. C. PORTERFIELD, *Chief Fish and Game Warden, Columbus, Ohio.*

DEAR SIR:—You have requested an opinion as to the right of county commissioners or county auditors to release prisoners duly tried, convicted and committed to jail for violation of the fish and game laws. In the correspondence which you have submitted it is stated that a person imprisoned for such offense, the validity of whose imprisonment had been determined in habeas corpus proceedings, was released either by the commissioners or the auditor of Belmont county.

As stated in a former opinion from this department construing Section 10, of the fish and game laws, (409e):

“The county commissioners have no authority to discharge or release persons convicted for violation of the fish and game laws, except upon the payment of the fine and costs remaining unpaid, or unless the full term has been served.”

Reports of the Attorney General, 1905, p. 97; 1904, p. 146.

Neither would the auditor have any such authority. It is the duty of the sheriff of the county to at once re-arrest such a prisoner released under a mistaken belief in the power of the county commissioners to order his release, and to detain such prisoner until the balance of fine and costs have been paid, or the full term of imprisonment served.



The correspondence which you have submitted also states that a county auditor has stated that he would issue no warrants for payment of costs in prosecutions for violation of the fish and game laws. It is provided in Section 409d R. S. that:

"In all prosecutions and condemnation proceedings under the provisions of this act, \* \* \* if the defendant be acquitted, or if convicted and committed in default of payment of fine and costs, or if the property seized be released, the costs in such cases shall be certified under oath to the county auditor who, after correcting the same, if found incorrect, shall issue his warrant on the county treasurer in favor of the person or persons to whom such costs and fees are due, and for the amount due each person."

The county auditor is required, by this section, to issue his warrant for the payment of costs certified under oath as required. He may correct any illegal items in the cost bill but has no discretion to withhold the warrant for payment of proper costs.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### UNIMPROVED ROAD — STATE AID FOR.

Where part of road for reconstruction of which state aid is asked is unimproved, such state aid may be applied only to reconstruction of improved portion.

March 28, 1906.

HON. SAM HUSTON, *State Highway Commissioner, Columbus, Ohio.*

DEAR SIR:—Your communication of recent date is received. You inquire whether under Section 19 of the act creating a state highway department, state aid can be given for the reconstruction of the Stetzer and Fifth Avenue road in Mifflin township, Franklin county, Ohio, 1,400 feet of the east end of said road being unimproved.

In reply I beg leave to say that section 19 of said act (R. S. 4614-29) provides for the reconstruction of any *turnpike* or *improved road*, and can only cover that portion of the road which is to be reconstructed. The portion of the road which is unimproved will have to be improved under Section 3 of said act, which provides:

"Any public road or section of road, located within said county, being at least one mile in length, or being less than one mile in length is an extension or connection with some permanently improved or paved street may be improved by the construction of a macademized road, etc."

Section 4876, which provides for repairing improved roads does not apply to the state highway department. In my judgment the portion of said road that is improved can be reconstructed under Section 19 of the act establishing a highway department, while the remainder of said road will come under the provisions of section 3 of said act.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## ASSISTANT SURVEYOR — COMPENSATION OF.

Assistant surveyor performing work of surveyor entitled to same compensation as surveyor.

March 28, 1906.

HON. SAM HUSTON, *State Highway Commissioner, Columbus, Ohio.*

DEAR SIR:— Your communication dated March 26th, in which you enclose a bill of the costs of making survey, plats, profiles, estimates, etc., of the Cheever road improvement is received.

You inquire as to what compensation the assistant surveyor is entitled to for this work. In reply I beg leave to say that Section 4664 which provides compensation for county surveyors for work upon county roads fixes said compensation at \$5.00 per diem. The enclosed bill does not indicate the character of work performed by the assistant surveyor. If he did the work of the surveyor, he would, in my judgment, be entitled to the same compensation as the surveyor.

Very truly yours,

W. H. MILLER,  
*Ass't Attorney General.*

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## ASSISTANT SURVEYOR — COMPENSATION OF.

Assistant surveyor acting as chainman or rodman entitled to compensation of chainman or rodman, not to that of surveyor.

March 31, 1906.

HON. SAM HUSTON, *State Highway Commissioner, Columbus, Ohio.*

DEAR SIR:— Your letter dated March 29th, inquiring as to whether a deputy county surveyor acting as a chainman or rodman, is entitled to \$1.00 or \$5.00 per day, is received. In reply I beg leave to say that under section 4664 county surveyors are entitled to receive for work upon county roads, \$5.00 per day; chain carriers and markers \$1.00 per day. Under this section if a deputy county surveyor acts as chainman or rodman he is entitled to \$1.00 per day.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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## CULVERTS — DUTY OF HIGHWAY COMMISSIONER TO PROVIDE.

Expense of culverts for drainage under road a part of total cost of said road, to be paid by state highway commissioner; no obligation attaches to state highway commissioner with respect to culverts for farm road approaches.

June 27, 1906.

HON. SAM HUSTON, *State Highway Commissioner, Columbus, Ohio.*

DEAR SIR:— You have requested my opinion on the following questions:

First. "In constructing roads under the highway department law, who pays for small culverts that are necessary to carry drainage under

the road, the county commissioners or township trustees, or are they part of the work of road construction, paid under the same conditions as the rest of the highway department contract?"

I am of the opinion that the expense of culverts necessary to carry drainage under the road is a part of the total cost and expenses mentioned in section 10 of the act establishing the state highway department and should be apportioned as therein provided.

Second. "What responsibility must the highway department assume in providing culverts and approaches for farm roads?"

There is no obligation on the part of the state or its agent, the state highway commissioner, to provide culverts or approaches for farm roads, nor is the state or the highway commissioner liable for damages resulting from change in grade.

Section 8 of the act establishing the state highway department, as amended 98 O. L., 232, provides:

"In case such proposed highway shall deviate from the existing highway, the officials making application must provide for securing the requisite right of way by condemnation proceedings or otherwise, prior to the actual commencement of the work of improvement, and shall secure release from damage to property by reason of change of grade."

Section 9 of the original act also provides that,

"The state of Ohio shall in no case be liable for any damage suffered."

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### STATE HIGHWAY COMMISSIONER — ADVERTISEMENT FOR BIDS.

State highway commissioner, amending estimate, when no bid has been received within the estimate made, under section (4614-19), R. S., must readvertise for bids.

August 31, 1906.

HON. SAM HUSTON, *State Highway Commissioner, Columbus, Ohio.*

DEAR SIR:—Your communication dated August 30th, inquiring whether or not the provisions in section 9 of the act to establish a highway department, (4614-19), R. S., authorizing the highway commissioner to amend his estimate, where no bid has been received within the estimate made, requires a readvertising for bids, is received.

In reply I beg leave to say, the provision above referred to is as follows:

"But if no bid otherwise acceptable be made within such estimate, such highway commissioner may amend his estimate, certify the same to the board of county commissioners, and upon the adoption of it of a resolution as provided in section 6, based on such amended estimate, *proceed anew* to obtain bids and award the contract *as herein provided.*"



In my opinion, the language "proceed anew \* \* and award the contract as herein provided," as contained in the above provision, clearly implies that where the estimate is amended by the state highway commissioner all the requirements provided for the receiving of bids must be complied with the same as if no previous action had been taken.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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#### STATE HIGHWAY COMMISSIONER—ADVERTISEMENTS FOR BIDS.

State highway commissioner may make no advertisement for bids for work on road improvements other than those authorized by section (4614-19), R. S.

December 27, 1906.

HON. SAM HUSTON, *State Highway Commissioner, Columbus, Ohio.*

DEAR SIR:—Your communication under date of December 21st, relative to your right to make additional advertisements to those provided for in section 9 of the highway laws and pay the expense of same out of your contingent fund, is received. In reply I beg leave to say section 9 of the highway law provides that:

"The state highway commissioner shall advertise for bids for two successive weeks in two newspapers of general circulation and of opposite politics, published in the county in which the road is to be built, according to said plans and specifications which shall be on file at the county commissioner's office and shall award such contract to the lowest responsible bidder."

No advertisement other than the one provided for herein is authorized and, in my opinion, the highway commissioner is without authority to make additional advertisements in engineering and contracting periodicals and pay the expense of same out of the contingent fund of his office.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### JUSTICE OF THE PEACE—TERM OF.

Term of justice of the peace begins at date of election.

March 13, 1906.

HON. J. R. CAMPBELL, *Justice of the Peace, Akron, Ohio.*

DEAR SIR:—Your letter of March 12th, enclosing your commission as justice of the peace, is at hand.

The Supreme Court has recently held that the term of office of a justice of the peace begins on the day of his election and expires three years from that date, without regard to the date of his commission. Your term therefore does not run until April 18th, but does continue until three years from the date of your election.

The justice who was elected to succeed you should not assume the duties of his office until that date.

I return your commission herewith.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### JUSTICE OF THE PEACE—EXTENSION OF TERMS OF.

Terms of office of justices of the peace existing November 7, 1905, extended by constitutional amendment (Art. XVII, section 3), adopted on that date, until such time as successors may be elected and qualified according to provision of said constitutional amendment and laws enacted by general assembly in pursuance thereof; new commission for such extension of term not necessary; new bond for same should be given.

April 23, 1906.

HON. J. H. LAFFERTY, *Justice of the Peace, Deshler, Ohio.*

DEAR SIR:—The recent constitutional amendment, and the acts of the last general assembly to carry the same into effect have resulted in inquiries from a number of justices of the peace, yourself among the number, as to the effect of the recent legislation upon existing terms of justices. The questions presented are as follows:

First. When the three year term of a justice of the peace expires between November 7th, 1905, and November, 1907, is there a vacancy in the office which may be filled by appointment under section 567, R. S.?

Second. If in such cases, the justice of the peace in office November 7th, 1905, holds over by virtue of Article XVII, sec. 3 of the Constitution until a successor shall be elected and qualified, must he give a new bond?

Third. Must a justice holding over procure a new commission for the extended term?

It is provided in Senate Bill No. 168, passed April 2nd, 1906, that justices of the peace shall be elected for a term of four years on the first Tuesday after the first Monday in the *odd numbered years*, and that their terms of office shall commence on the first day of January next after their election. The constitutional amendment adopted November 7th, 1905, provides:

“Sec. 3. Every elective officer holding office when this amendment is adopted shall continue to hold such office for the full term for which he was elected, and until his successor shall be elected and qualified as provided by law.”

Section 1 of the same amendment provides that elections of officers, other than state and county officers, shall be in the odd numbered years, and section 2 provides:

“The term of office of justices of the peace shall be such even number of years, not exceeding four, as may be prescribed by the general assembly—And the general assembly shall have power to so extend existing terms of office as to effect the purposes of section 1 of this article.”

Construing these sections together, I am of the opinion that the joint effect of this amendment and the statute is to extend until January 1st, 1908, the terms of justices of the peace who were in office November 7th, 1905, and to whom no successors were elected at the November election, 1905.

The terms of existing officers having been expressly extended by the constitution itself, the numerous decisions, that the term of an elective officer whose term is fixed by the constitution cannot be extended by the legislature, are not applicable.

There will, therefore, be no vacancy in the office of a justice of the peace in office November 7th, 1905, and to whom no successor was elected at the last November election, although the three years' term for which such justice was elected may expire during this year.

New bonds should be given for the extended term.

State v. Crooks, 7 Ohio, 2nd part, 222, 223;

King v. Nichols, 16 O. S., 80-85;

Cambria Iron Co. v. Keynes, 56 O. S., 511.

It is not, I believe, necessary that a justice of the peace should **procure** a new commission covering the period for which his term has been extended. A justice of the peace receives a commission from the governor "upon producing to the proper officer or authority, a legal certificate of his being duly elected or appointed." (Sec. 83, R. S.) He is ineligible to perform any of the duties of his office until he receives such commission. But when an existing term is extended, the incumbent does not hold by virtue of any new election or appointment which can be certified by any officer.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

#### JUSTICE OF THE PEACE — EXTENSION OF TERM OF.

Term of justice of the peace begins at date of election; successor of justice of the peace elected in November, 1904, will be elected in November, 1907, to take office January 1, 1908, incumbent's term being extended; tenure of office of justice of the peace elected November 7, 1905, will cease November 7, 1908, when there will be a vacancy in his office to be filled by appointment.

May 26, 1906.

HON. OSCAR REDDING, *Justice of the Peace, West Toledo, Ohio.*

DEAR SIR: — Your letter of May 23rd requests my opinion on the following questions:

1. "If a justice's three year commission expires on May 8th, 1908, shall his successor be elected in November, 1907, or does he hold over until November, 1909?"

2. "If a justice's three year commission expires in May of 1909, shall his successor be elected in November, 1907, or does he hold over until November, 1909?"

The supreme court has recently held that the term of a justice of the peace under the laws existing prior to the amendment of section 1442 by the 77th gen-



eral assembly, commenced on the date of election and expires three years from that date. I presume that the justice referred to in your first question was elected at the November election, 1904. His term, which would have terminated in November, 1907, has been extended by section 3 of article XVII until January 1st, 1908. His successor should be elected at the November election, 1907.

Section 581 (97 O. L., 38), which provides for the election at the November election, each year, of successors to all justices of the peace whose terms would expire within one year from the first day of November, was repealed by S. B. No. 168 (98 O. L., 171).

The terms of justices of the peace hereafter elected will commence on the first day of January next after their election. If successors to justices of the peace whose terms will expire after January 1st, 1908, should be elected at the November election, 1907, a conflict of terms would result. Since no statute now requires elections to fill vacancies which will occur at any time during the year following the election, I am of the opinion that the successors of justices of the peace whose terms expire after January 1st, 1908, should not be elected until November, 1909.

The justice whose commission expires in April or May, 1909, was not holding office during November, 1905. His term is not, therefore, extended by the constitutional amendment. There will be a vacancy in his office *three years from the date when he was elected*, which should be filled by appointment by the trustees, as provided by section 567, as amended 98 O. L., 171.

I enclose copy of a former opinion which answers your question as to the term of justices whose statutory term expired this spring, and to whom no successors were elected at the November election, 1905.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## JUVENILE COURT—JURISDICTION OF.

Jurisdiction of juvenile court of offenses of parents, etc., contributing to delinquency of children; process.

June 29, 1906.

HON. GEORGE S. ADDAMS, *Judge Juvenile Court, Cleveland, Ohio.*

DEAR SIR:—Replying to your recent inquiry proposing the question as to the power of juvenile courts to punish those contributing to delinquency of a child, I again refer you to that portion of the opinion of this department of the 12th inst., in which the following language is used:

“Section 21 of the original act, (97 O. L., 561, 568) provides certain fines for the offenses therein defined, and confers jurisdiction upon the juvenile court to hear the same and enforce its orders. In that class of cases such court has jurisdiction. In the class of cases mentioned in section 23 (98 O. L., 317), I am inclined to believe that such court also has jurisdiction to hear and determine as to the guilt or innocence of the persons accused of the offenses defined therein, etc.”

Concerning this portion of the opinion of that date you ask,

“How are we to get them into court? And if they came voluntarily, on what would a judgment of the court be based?”

Section 21 of the former act (97 O. L., 568), provides that,

"In any case in which the court shall find a child neglected, dependent or delinquent, it may, in the same or subsequent proceeding upon the parents of said child, or either of them, being duly summoned or voluntarily appearing, proceed to inquire into the ability of such parent, or parents, to support the child, or to contribute to its support, and if the court shall find such parent or parents able to support the child, or contribute thereto, *the court may enter such order or decree, relating to such report (support) as the equity of the case demands*, and if the decree of the court be that any such parent discipline and control a delinquent child, then the court may enforce such order by fine imposed on any such parent, not to exceed, for the first offense, twenty-five dollars (\$25.00) and for each subsequent offense one hundred dollars (\$100.00)."

Section 23 of the amendatory act (98 O. L., 317) should be construed as defining a further and additional penalty for persons responsible for the abandonment, or for causing, encouraging or contributing to the delinquencies, dependency, or neglect, of such child, and in expressing the view contained in the opinion of this department of the 12th inst., that the same court has jurisdiction to hear and determine as to the guilt or innocence of such accused, I find no adequate reason for changing the opinion therein expressed.

The question of the power of the court to summon the individuals, or "to get them into court" is answered by the former act, section 5 thereof, wherein it describes the "summons or other process," and by section 21 thereof, wherein it uses the language "being duly summoned or voluntarily appearing."

This language is to be construed by the rule set forth in section 29 of the amendatory act (98 O. L., 319) to-wit, "liberally construed to the end that its purpose may be carried out," and in this view the same authority to summon or serve other process in a proceeding to inquire into the delinquency of a child, should also be extended to those cases against parents or other persons responsible for such delinquencies as defined in section 23 (98 O. L., 317). Jurisdiction has been defined to be the power to hear and determine a given matter. This jurisdiction is unquestionably conferred.

As the questions proposed by you only relate to the issuing of summons or other process, I consider the opinion herein above expressed as a full answer to such questions. I remain,

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### FREE EMPLOYMENT AGENCIES — PRIVATE.

Private free employment agencies not required to take out license; construction of act regulating such agencies.

June 28, 1906.

HON. M. D. RATCHFORD, *Commissioner of Labor, Columbus, Ohio.*

DEAR SIR: — In answer to your request for my opinion as to the construction of the act of April 25th, 1904, relating to employment agencies, I beg to advise you that, in my opinion, a person or corporation which maintains a private em-



ployment agency in this state is not liable to the fine imposed by section 1 of the act for doing business without a license, provided such agency is not operated "for hire." Section 3 of the act defines private employment agencies, and certain agencies come within the definition, whether a fee or commission is charged or not; but section 1 requires a license only from such private employment agencies defined by section 3, as are operated for hire.

I am also of the opinion that the display of a sign which reads "Free Employment Bureau" is not prohibited by the provision of section 1 that:

"No agency shall print, publish or paint on any sign, window or insert in any newspaper or publication a name similar to that of the Ohio Free Public Employment Offices."

The sign "Free Employment Bureau" does not contain either the word "Ohio" or the word "Public" and therefore does not convey the idea that the agency advertised is a state or public agency.

The facts stated in the letter from Mr. Patterson which you left at this office do, however, show that an offense has been committed. The last clause of section 1 of the act provides that:

"No person, firm or corporation shall conduct the business of any employment office in or in connection with any place where intoxicating liquors are sold."

I enclose a form of affidavit for use in prosecutions for violations of this provision of the act.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### YOUNG MEN'S CHRISTIAN ASSOCIATION—OPERATION OF EMPLOYMENT AGENCY BY.

Operation of employment agency by Young Men's Christian Association not a violation of section (4365-3) R. S., though a fee is charged.

November 14, 1906.

HON. M. D. RATCHFORD, *Commissioner of Labor Statistics, Columbus, Ohio.*

DEAR SIR:—Your letter of November 13th requests an opinion upon the following question:

"Is it or is it not a violation of the law governing private employment agencies, for the Young Men's Christian Association, or any of its branches, to impose and collect a fee from its members, or others, for finding them employment?"

Section 3 of the Act of April 25th, 1904, is as follows:

"A private employment agency is defined and interpreted to mean any person, firm or corporation furnishing employment or help, or who shall display any employment sign or bulletin, or through the medium of



any card, circular or pamphlet, offering employment or help, shall be deemed an employment agency, and subject to the provisions of this act, whether a fee or commission is charged or not; provided that charitable organizations are not included."

The Young Men's Christian Association is subject to the provisions of the act "whether a fee or commission is charged or not" unless it is a charitable organization within the meaning of this section. Whether or not it is a charitable organization within the meaning of this particular statute must be determined by a consideration of the terms of the act, the purpose of the law and the reason for the exception. The purpose of the law is evidently not to raise revenue, but to protect persons who use the employment agencies from oppression, extortion or seduction. The reason for the *exception* is that it is presumed that charitable organizations—organizations the very object of whose existence is to promote the welfare of the community in some particular—will not, if they engage in the operation of an employment agency, operate such agency with any other purpose than the benevolent one of helping the needy to obtain employment. The fact that a small fee is charged for such service is not necessarily inconsistent with such purpose. A charitable organization may not have sufficient funds available from other sources to fully defray the necessary expense of operating an efficient employment bureau. It does not, in my opinion, cease to be a charitable organization merely because a small fee is charged for its services and applied to defraying such expenses.

The present case is readily distinguishable from those cases where the property of a Young Men's Christian Association has been held not to be exempt from taxation, as belonging to a charitable organization, (61 N. J. L., 420), or where such association has been held liable for injuries sustained as a result of the negligence of its employes. (165 Mass., 280.)

An exemption from taxation of property applied to charitable uses is upon the theory that since the property is already wholly devoted to public use, it is unwise to impose a tax upon it for the benefit of other public uses. But the exemption in the present case, as suggested above, is not because the property and activities of the exempted organization are wholly devoted to public uses, because the general purpose of such organization is such that state regulation and supervision would be, in the majority of cases, wholly unnecessary.

I am, therefore, of the opinion that Young Men's Christian Associations, as a class, are not subject to the provisions of the act merely because a fee is charged for the services of employment bureaus. If, on the other hand, you have evidence that any association, under the name and guise of the Young Men's Christian Association is not in fact an organization conducted as such associations usually are, but is conducting an employment bureau not primarily for the benefit of the unemployed, but as a means of raising funds to be used for the special benefit of the members of the association, then such particular association would not be a charitable organization, and would, of course, be subject to the terms of the act above referred to.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### COAL MINERS—EMPLOYMENT OF.

Act of legislature in 98 O. L., 259, respecting employment of coal miners invalid; enrollment of bill and signing thereof by presiding officers of both houses essential to validity of law; act as so enrolled and signed is the law.

May 22, 1906.

HON. GEORGE HARRISON, *Chief Inspector of Mines, Columbus, Ohio.*

DEAR SIR:—In response to your request of May 21st, 1906, I have examined the act entitled "An Act in relation to the safety, competency and the employment of coal miners, and to punish for infraction of the same," passed April 2, 1906.

Section one of this act provides that no inexperienced miner shall be permitted to mine coal unless accompanied by some competent miner. This section, however, contains a proviso as follows:

"Provided that this act shall not apply to mines generating fire damp, gas or combustible matter."

This I quote from the bill as enrolled and signed. It appears, however, from the engrossed bill that this provision should read:

"Provided that this act shall only apply to mines generating fire damp, gas or combustible matter."

In other words, it is claimed that by error or otherwise, the bill which was aimed only at certain dangerous mines, was made to read as though it applied to all others than those against which the legislature was aiming.

Whatever the general assembly may have intended no measure can be said to be a law until it has been enrolled and signed by the presiding officer of each branch of the general assembly. If the act under consideration is a law at all it must therefore be with the provision that it shall *not* apply to mines generating fire damp, gas or combustible matter; and however well established it may seem to be that the intent of the general assembly was to legislate against the dangers only in the class of mines mentioned, no such bill has been signed by the presiding officers as required by the constitution and no such law can now be said to exist.

I see no reason to question the power of the legislature to provide reasonable qualifications for miners in all mines, and it probably has the power to determine the qualifications of miners in those mines only in which appear dangers such as those referred to in this act. I am quite clear, however, that it has no power to provide such regulations in the safer mines and provide no protection at all to those who most need the same, that is those who work in mines generating fire damp, gas or combustible matter. Such an exception is, in my judgment, sufficient to invalidate the whole act. Because of the failure of the presiding officers to sign a bill applying only to dangerous mines there is no such law existing and because of a lack of power in the general assembly to regulate the safer mines to the exclusion of the others, the act as enrolled cannot be sustained. With these views it seems to be unnecessary to consider the other questions presented.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### MINES — CHIEF INSPECTOR OF — VIOLATION OF RULES AND REGULATIONS OF.

Persons not operators of mines nor their employes may not be prosecuted for violation of rules and regulations of chief inspector of mines.



December 27, 1906.

HON. GEORGE HARRISON, *Chief Inspector of Mines, Columbus, Ohio.*

DEAR SIR: — Upon examination of the written request made to you by W. D. Johnson, superintendent of a coal mine at Ginther, Ohio, I find that the offense complained of is one that is not in the province of the mine inspector's department to prosecute. The rules and regulations of your department as to the operation of mines apply only to employers and employes. Whenever said rules are violated by spectators or persons not in the employ of the operator the criminal action instituted by you would be against the operators of the mine for permitting the rules and regulations to be violated. The operator has his remedy against the individual who is not an employe for violation of said rules and regulations by forbidding him to enter the mine, or a prosecution for trespass.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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## STATE INSPECTOR OF OILS — CREATION OF OFFICE OF.

Act creating office of state inspector of oils effective May 15, 1906.

April 30, 1906.

HON. JOHN R. MALLOY, *Inspector of Oils, Columbus, Ohio.*

DEAR SIR: — Your letter dated April 25th, inquiring when the law creating the office of state inspector of oils becomes operative, is received.

In reply I beg leave to say that I have had no opportunity to examine this law, as it is not included in the advanced sheets furnished this office. However, assuming your quotation from the law to be correct, it is my opinion that the powers and duties of the district inspectors and their deputies will terminate on the 14th of May, 1906, and that the officers provided for in the new law will assume their duties on the 15th of May, 1906.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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## STATE INSPECTOR OF OILS — CREATION OF OFFICE OF.

Supplementary to foregoing opinion.

May 2, 1906.

HON. JOHN R. MALLOY, *Inspector of Oils, Columbus, Ohio.*

DEAR SIR: — Your letter dated April 30th, enclosing a copy of the act providing for the appointment of a state inspector of oils, etc., is received.

A careful examination of the act, particularly those portions underscored, confirms my view as stated in my letter dated April 30th.

Section 395, as amended, expressly provides that the appointment of a state inspector of oils shall be for a term of two years *commencing* May 15th, 1906, and further provides that the present inspectors of oils for the first and second districts shall perform the duties of the state inspector of oils under this act *until* May 15th, 1906. The preposition "until" as here used, is equivalent to "up to." That is,



the present inspectors of oils shall perform the duties of the state inspector of oils under this act *up to* May 15th. Therefore the duties of the present inspectors of oils, under this act, will terminate on the 14th day of May and the state inspector of oils will assume the duties on the 15th day of May, 1906.

Very truly yours,

W. H. MILLER,  
*Assistant Attorney General.*

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#### OIL — SUB-STATIONS FOR SALE OF.

State inspector of oils may not limit number of sub-stations at which refined oil may be prepared for sale.

October 5, 1906.

HON. W. L. FINLEY, *State Inspector of Oils, Columbus, Ohio.*

DEAR SIR: — Your communication under date of September 28th, relative to the authority of the State Inspector of Oils to limit the number of, and designate the sub-stations at which refined oil may be barreled and prepared for sale, is received.

In reply I beg leave to say the rules and regulations for inspection referred to in your letter which the state oil inspector under section 395, R. S., as amended, (98 O. L., 360) is authorized to prepare can be made to apply only to the official duties of the deputy oil inspectors for the reason that said section 395 expressly provides that "such rules and regulations shall be uniform and binding on all deputy inspectors in both districts of the state." I am therefore of the opinion that the state oil inspector, under the present law, is without authority to either limit or designate the sub-stations at which oil may be inspected.

If as you say the maximum number of inspectors allowed by law is insufficient to inspect the oil prepared for sale by reason of the number of sub-stations at which oil may be inspected, the fault lies with the legislature. The law authorizing the state oil inspector to appoint deputy inspectors should be so amended as to give the state oil inspector authority to appoint as many deputy oil inspectors as the inspection of the oil prepared for sale, requires.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### PROBATE JUDGES — COMPENSATION OF, FOR SERVICES IN CRIMINAL CASES.

Manner in which probate judges paid for services in criminal cases discretionary with county commissioners.

May 18, 1906.

HON. W. W. PENNELL, *Probate Judge, Georgetown, Ohio.*

DEAR SIR: — Your letter dated May 12th, inquiring at what times allowances should be made the probate judge under section 6470, Revised Statutes of Ohio, is received.

In reply I beg leave to say that said section only provides that,

"The judges of probate courts shall be paid for their services in criminal cases such sums as the commissioners of said counties may allow, which sums shall be paid out of county treasury of said counties."

No provision is made as to the time payment shall be made. The practice in some counties is to make an annual allowance, such as was made the prosecuting attorneys under section 1274, R. S., while in others compensation is allowed the probate judge for services rendered in each criminal case tried. The determination of the question as to when the allowance shall be made rests in the discretion of the county commissioners.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

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#### PROBATE COURT—JURY FOR CRIMINAL TRIALS.

Jury for trial of criminal cases in probate court need not be drawn and impanelled anew for each case.

May 31, 1906.

HON. GEORGE H. PONTIUS, *Probate Judge, Circleville, Ohio.*

DEAR SIR:—Your letter dated May 29th is received. You say that seven persons charged with the violation of the Sunday closing law are bound over to appear before your court at the next term beginning June 4, 1906, for trial; that the first case will be tried June 7th, and a jury is demanded. You inquire whether or not under section 6466 of the Revised Statutes of Ohio a new jury will have to be drawn and impanelled for each of the seven cases.

Replying I beg leave to say that section 6466 of the Revised Statutes is as follows:

"The jury for the trial of criminal cases in the probate court, shall be drawn as for the court of common pleas, before or during any term of the said probate court, as the said probate court may order, and a venire for such jury to either forthwith, or on a day named, shall be issued by the said probate court; which venire shall be served and returned in the same manner as a venire from the court of common pleas."

This section provides that the jury for the trial of criminal cases in the probate court shall be drawn as for the court of common pleas and therefore may be required to do jury service the same as in the court of common pleas, subject to the provisions of section 5179, Revised Statutes of Ohio. The law makes no provisions for the drawing or impanelling of a jury in the probate court for each criminal case tried.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## INHERITANCE TAX — COLLATERAL.

Devise to son-in-law when daughter died prior to death of testator not subject to collateral inheritance tax.

July 30, 1906.

HON. C. A. STEUVE, *Probate Judge, Wapakoneta, Ohio.*

DEAR SIR: — I have yours of July 28th, requesting my opinion upon the question of whether a devise to a son-in-law is subject to the collateral inheritance tax where the daughter of the testator died prior to the death of the decedent.

In constructing the collateral inheritance tax law of the state of New York, which is, in this respect, exactly the same as the Ohio statute, the courts of that state have held that the tax does not attach to such inheritance.

19 Abb. N. Cas.; 232;

6 Dem., 145.

If this construction is correct it renders unnecessary the consideration of the other questions suggested by you.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## PROBATE JUDGE — EXPENSE OF, IN HOLDING INQUEST OF INSANITY.

Probate judge not entitled to expense incurred in personally visiting one upon whom an inquest of insanity is being held.

July 31, 1906.

HON. U. C. DEFORD, *Probate Judge, Carrollton, Ohio.*

DEAR SIR: — In response to your inquiry made under date of July 30th, 1906, I beg to say that inasmuch as no provision has been made by statute for the judge of the probate court to receive any expenses incurred in personally visiting one upon whom an inquest of insanity is being made, under the provisions of section 703 of the Revised Statutes, that such judge cannot collect such expenses, but is required to bear the same himself.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*

## JUVENILE COURT — CERTIFICATION OF ARREST TO.

Arrest of child under 17 is to be certified from justice's court to juvenile court only when made without warrant.

September 27, 1906.

HON. CHARLES C. BOW, *Probate Judge, Canton, Ohio.*

DEAR SIR: — Your communication dated September 21st, asking construction of section 10 of the juvenile court act (98 O. L., 317) relative to certifying cases of arrest of children under the age of seventeen years from a justice's court to the juvenile court, is received. In reply I beg leave to say section 10 only provides that in case a child under the age of seventeen years is arrested *without warrant*



and is taken before a justice of the peace, or judge of the police court it shall be the duty of such justice of the peace or judge of the police court to transfer the case to the juvenile court. In my opinion this section does not apply to cases where the arrest is made upon a warrant regularly issued.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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#### RAILROADS AND TELEGRAPHS — COMMISSIONER OF — DUTY OF.

It is the duty of the commissioner of railroads and telegraphs to obtain copies of agreements supposed to exist between railroad companies, under section 256, R. S.

April 4, 1906.

HON. J. C. MORRIS, *Commissioner of Railroads and Telegraphs, Columbus, Ohio.*

DEAR SIR: — I am in receipt of yours of March 31st, advising me that an attorney interested in private litigation against a railroad company operating in Ohio has demanded of you copies of agreements assumed to exist between such railroad company and other companies, mentioned in section 256, R. S.

I understand that you are of the opinion that contracts, copies of which are desired, do exist between the companies mentioned, and you desire to know whether or not it is your duty to secure from the railroad company a copy of such contract for the benefit of the person so desiring the same.

Section 256 of the Revised Statutes provides that copies of all such contracts shall be furnished the commissioner of railroads and telegraphs upon his demand. If the commissioner has reason to believe that the law of the State of Ohio is being violated in any respect, it is his duty to investigate the facts whether the resulting disclosures may or may not be serviceable to either party in private litigation, and it is likewise his duty to secure from the railroads copies of all the documents mentioned in said section so far as the same may be of assistance to him in determining whether or not the law is being or has been violated. Without any more definite knowledge of the nature of the information desired by the citizen making the inquiry I can only say that if the copies of documents sought by him would make it easier for either the public or a private citizen to enforce or protect either public or private rights, it would seem to be a reason why copies of such documents should be filed in your office. Of course if you for any reason make demand on railroads for copies of such contracts and they are forwarded and become a part of the files of your office, they are open to the public use and inspection under such reasonable regulations as you may adopt. My own opinion is that all of the information that can be secured by the commissioner of railroads and telegraphs under section 256 should be obtained by him and be on file in his office for the public use, but the wisdom and propriety of such action seems to be confined entirely to the commissioner.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

## FREIGHT FACILITIES — FAILURE OF RAILROAD COMPANY TO FURNISH.

Failure of railroad companies to furnish adequate freight facilities a question of fact.

April 16, 1906.

HON. J. C. MORRIS, *Commissioner of Railroads and Telegraphs, Columbus, Ohio.*

DEAR SIR: — I have your communication of this date, accompanied by a letter addressed to you by Hon. Charles Gerhardt, prosecuting attorney of Pickaway county, from which it appears that the Columbus and Southern Railroad Company operates a railroad from Wyandot Junction to South Bloomingville and that it refuses to furnish facilities for taking on or for unloading freight at the village of Tarlton, Pickaway county, situate on the line of said road, and the inquiry is made whether any relief can be had by the public immediately affected.

The question involved is one of mixed fact and law. It cannot be contended, of course, that a railroad company can be required to furnish shipping facilities to every person or every group of persons desiring the same nor, on the other hand, can a railroad company avoid its obligations as a common carrier to furnish shippers proper facilities whether the legislature has by statute prescribed such obligations or not. Such duties are among those imposed upon railroad companies by the common law and adequate remedy is provided for those justly complaining against a company delinquent in this respect.

Northern Pacific R. R. Co. v. Washington, 3 Was. Terr., 303, and cases there cited.

In addition to the well established common law duty of railroad companies, the railroad commission law, which becomes effective today, makes mandatory provisions to the same effect. I quote from section 9 of this act as follows:

“All railroads shall keep and maintain adequate and suitable freight depots, buildings, switches, and sidetracks for the receiving, handling and delivering of freight transported or to be transported by such railroad.”

The question of fact then arises, as to whether the village of Tarlton is such a business center as to justify its claims. The answer to this is to be found only by examining into the condition obtaining along the road. What is the population of the village? What is the population of other villages now being served with the desired facilities by this road? What amount of freight may reasonably be expected at this village, and what amount is furnished by other points now enjoying facilities? How far are those who would furnish freight at Tarlton compelled to transport their freight to obtain the desired facilities and how generally do the facilities at Tarlton differ from those similarly situated along the line of the railroad?

Upon your determination of the necessary facts in the case I shall be glad to take up the matter further, either singly or with the co-operation of the prosecuting attorney of Pickaway county.

Very truly yours,

WADE H. ELLIS,

*Attorney General.*



## FARE — EXCESSIVE.

Charge of 15c for carrying passenger three miles is unreasonable, and though not a violation of any specific statutory provision is unlawful.

June 27, 1906.

HON. J. C. MORRIS, *Commissioner of Railroads and Telegraphs, Columbus, Ohio.*

DEAR SIR:—I have yours of June 22nd, 1906, requesting my opinion upon the legality of a charge of fifteen cents made by a railroad company for the carriage of a passenger a distance of less than five miles, the specific instance complained of being only three miles.

The governing statute, section 3374, 98 O. L., 4, prescribes a two cent rate per mile "for a distance of more than five miles," leaving fares for distances under five miles, uncontrolled by statute, and, therefore, subject only to the common law rule that the fare must be a reasonable one and to the statutory provision hereinafter referred to.

In applying the common law rule that the rate must be a reasonable one, it is proper to consider what the legislature itself has determined to be reasonable. The legislature of this state has determined that ten cents is a reasonable rate for the transportation of passengers for a distance of six miles and, in my judgment, this is conclusive of the fact that a charge of fifteen cents for three miles is not a reasonable rate. Upon a similar question, that is the transportation of property, it has been held that,

"It is unreasonable, as a matter of law, that the company shall fix a greater sum for a less distance than thirty miles than the maximum allowed for full thirty miles."

Campbell v. M. & C. R. R. Co., 23 O. S., 168.

About the same time the supreme court said as to passenger rates within less distances than those controlled by statute:

"That some latitude should be given to the discretion and judgment of the company, which is authorized, from time to time, to fix the fare at 'reasonable rates,' is undoubtedly true, but it is as certainly true, that the discretion of the company in the matter is not unlimited.

"If the rate fixed for a distance less than thirty miles were in excess of the maximum allowed for thirty miles or more, the court would at once declare it to be unreasonable, but I can conceive of no other instance in which like judgment could be pronounced without the aid of testimony."

Smith v. Pittsburg, Ft. W. & C. Ry. Co., 23 O. S., 10, 15.

Both of these decisions are approved in Railroad v. Skillman, 39 O. S., 444, 451.

Moreover the last general assembly in section 23 of the Railroad Commission Act, 98 O. L., 355, provided that,

"It shall be unlawful for any common carrier \* \* \* to make or give any undue or unreasonable preference or advantage to any \* \* \* locality \* \* \* or to subject any \* \* \* locality \* \* \* to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."



If a locality eight miles from a central point is given a passenger rate of fifteen cents to such point; and if another locality two miles nearer such central point is given a rate of ten cents; it would manifestly violate this section to charge another locality only three miles from such central point a fare of fifteen cents.

In both views of the case, therefore, I am of the opinion that the charge of fifteen cents for the carriage of passengers a distance of three miles is a violation of law.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### ABSTRACT OF TITLE TO CERTAIN REAL ESTATE.

January 6, 1906.

STATE TUBERCULOSIS SANATORIUM COMMISSION, *Columbus, Ohio.*

GENTLEMEN:—I have examined the abstract of title to the land proposed to be conveyed to the State of Ohio for the purpose of erecting a Tuberculosis Sanatorium and find the title regular except in the following respects:

1. Affidavits should be secured showing Gertrude V. March and A. F. Snyder to be sole heirs of Eliza Snyder, and others showing Gertrude V. March to be the sole heir of A. F. Snyder.

2. Evidence should be obtained showing that Edward Marquis did not leave more than five heirs, and that four of these were John P. Marquis, Edward Marquis, Julia Anne Hollister and Sarah Jane Starr, and that the fifth was either Margaret Beatty or Mary E. Dowds.

3. The tax deed of part of tract 3 to Abel Hart in 1876 should be cancelled by a court of competent jurisdiction or a release had from Hart or his heirs.

4. The abstract is not quite clear as to service of the minor owner of tract 1. I advise that a guaranty be had that this minor upon reaching maturity will execute and deliver to the state a quit-claim deed.

I understand that interested parties are ready to comply with all the foregoing suggestions and with that understanding I approve the title.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

#### ABSTRACT OF TITLE TO CERTAIN REAL ESTATE.

January 11, 1906.

STATE TUBERCULOSIS SANATORIUM COMMISSION, *Columbus, Ohio.*

GENTLEMEN:—Supplementing my opinion of January 6th, 1906, relating to the abstract of title to the land proposed to be conveyed to the State of Ohio for the purpose of erecting a tuberculosis sanatorium, I beg to say that affidavits have been submitted covering all the discrepancies pointed out in my former communication, excepting that part of the third tract relating to the tax deed of Abel Hart, and a bond has been given the state protecting it against any liability growing out of the Hart deed, which it is proposed to cancel through court proceedings. There is no objection, therefore, to the payment of the purchase price of all of the land proposed to be deeded.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

# SCALES—DUTY OF PRIVATE CORPORATIONS AS TO.

There is no state law requiring private corporations to test scales.

May 24, 1906.

PROF. B. F. THOMAS, *State Sealer of Weights and Measures, Ohio State University, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter of May 23d, in which you ask whether there is any state law requiring railroads and other corporations, operating scales for weighing, to test the same and maintain them in proper and true condition?

There is no such law. The criminal statute as to selling or using false weights is as follows:

R. S. 7067. "Whoever knowingly sells, or directs or permits any person in his employ to sell, any property, and makes or gives any false or short weight or measure; and any person owning or having charge of any scales or steelyards for the purpose of weighing any property, who knowingly reports any false or untrue weight, whereby any person may be defrauded or injured, shall be fined not more than fifty dollars, or imprisoned not more than thirty days, or both."

Municipalities have the general power,

"To regulate the weighing and measuring of hay, wood and coal and other articles exposed for sale, and to provide for the seizure, forfeiture and destruction of weights and measures, implements and appliances for measuring and weighing which are imperfect or liable to indicate false or inaccurate weight or measure, or which do not conform to the standards established by law and which are known, used or kept to be used for weighing or measuring articles to be purchased, sold or offered or exposed for sale."

Sec. (1536-100) 12 R. S.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

# FIRE ESCAPES—DUTY OF PROVIDING.

Owner of building, not occupant thereof, required to provide fire-escapes ordered by deputy inspector of workshops and factories.

November 26, 1906.

HON. JOHN H. MORGAN, *Chief Inspector of Workshops and Factories, Columbus, Ohio.*

DEAR SIR:—Replying to your inquiry as to whether the owner or the occupant of a building is required to provide fire-escapes when so ordered by the state inspector of workshops and factories, I beg leave to say I have carefully examined the sections of the statutes referred to by Judge Connor as well as the case of *Lee v. Smith*, 42 O. S., and am of the opinion that section 4238k controls, and the owner, or agent for the owner, must therefore provide the necessary fire-escapes when ordered by the inspector of workshops and factories.

Very truly yours,

WADE H. ELLIS,  
*Attorney General.*

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BOARD OF MANAGERS  
OF THE  
Home for Ohio Soldiers, Sailors,  
Marines, Their Wives, Widows,  
Mothers and Army Nurses  
TO THE  
GOVERNOR OF THE STATE OF OHIO  
FOR THE  
FISCAL YEAR ENDING NOVEMBER 15, 1906.





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J. CORY WINANS.....	<i>Steward.</i>
J. V. WINANS.....	<i>Physician.</i>
MILLIE WEBER .....	<i>Matron.</i>

## REPORT OF BOARD OF MANAGERS.

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MADISON, OHIO, January 19th, 1907.

HON. ANDREW HARRIS, *Governor of State of Ohio.*

DEAR SIR:— The Board of Managers of the Madison Home herewith offer their annual report, including the reports of our Superintendent, Steward and Physician, which we have examined and considered, and which we now endorse and approve.

In our former report we have noted the necessity of the enlargement of the Home, so that the benefits of the same can be bestowed upon quite a large number of deserving applicants, and also that we might be able to better the conditions of our members, by making the Home more sanitary, healthful and restful.

We trust that the financial condition of the State of Ohio will allow this to be done in the near future, and that the Legislature of the State may find the enlargement of the Home the reasonable and praiseworthy thing to do.

Our Superintendent, Walton Weber, in his report, calls attention to the provision of the statute which demands that the widow of a soldier who desires admission must have been married to him prior to 1870. We agree fully with him that this date should be fixed at 1880, if not yet farther than that time.

The Superintendent has managed the business of the Home sanely and economically, having in mind comfort, welfare and pleasure of the members and his duty to the State, and we commend the Superintendent and his loyal wife, Matron of the Home, for their earnest, conscientious and painstaking labor and care.

We are assured that they have left nothing undone, in their power to do, in their endeavor to make the institution in fact a HOME for the members in all that word implies.

We also desire to express our appreciation of the interest that you have taken in the affairs of the Home, and assure you that we will at all times be ready to co-operate with you in every way possible.

With the assurance of our personal esteem, we are,

Very respectfully,

GEORGE F. ROBINSON,

P. H. BRUCK,

J. CORY WINANS,

A. C. YENGLING,

S. A. WILDMAN,

*Board of Managers.*



## REPORT OF SUPERINTENDENT.

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*To the Honorable Board of Managers of The Home of the Ohio Soldiers, Sailors, Marines, Their Wives, Mothers, Widows, and Army Nurses.*

GENTLEMEN:— I have the honor to submit to you my third annual report of this Home for the year ending November 15th, 1906.

Sections No. 1 and 2 of an Act (Senate Bill No. 89) passed April 5th, 1904, by the General Assembly of the State of Ohio, and Approved by the Governor April 6th, 1904, authorizing the State to assume control of this Home provides as follows:

Section 1. That there shall be established at Madison, Lake County, Ohio, on a tract of land containing fifteen acres which has been deeded to the state of Ohio by the National Womens' Relief Corps of the United States, the title to which in the state has been approved by the attorney-general of the state of Ohio, an institution under the name of The Home of the Ohio Soldiers, Sailors, Marines, their Wives, Mothers, Widows and Army Nurses. Provided that the benefits of this act shall not extend to persons who are now the inmates of any home or institution established by the state or national government for the care of soldiers, sailors, and marines, and provided further that the present inmates of said Madison, Ohio Home shall be entitled to all the benefits of this act.

Section 2. All honorably discharged soldiers, sailors, and marines, who served the United States government in the civil war, from 1861 to 1865, and who are citizens of Ohio, at the date of the passage of this act, and are not able to support themselves, and their wives, to whom they were married at any time prior to the year 1870, the dependent mothers of such soldiers, their widows who were married prior to the year 1870, and army nurses of said war, and who are residents of Ohio, may be admitted to the home established by this act, under such rules and regulations as may be adopted by the board of managers hereinafter provided for; provided, that preference shall be given to those who served in Ohio military organizations. And in case any of the said soldiers, sailors or marines who have been admitted to said home, shall die, leaving their wives surviving them, their wives shall be permitted, under such rules and regulations as may be adopted by the said board, to live in and be supported at said home.

Section 6. Also provides that, The board of managers shall have power to accept and receive, and hold in trust, for the use of said home, any and all contributions, gifts and bequests, of lands, buildings or money; and if any such donation of property be made and accepted by the board, it shall be conveyed in fee simple to the state of Ohio, without any incumbrance or condition, other than the same shall be used by the state to carry out the purposes of the said home, and, when it shall

not be necessary for that purpose, that it shall be used for some other eleemosynary purpose. The title to said property must be approved by the said attorney-general before the same is accepted.

CERTIFIED LIST OF MEMBERS PRESENT NOVEMBER 15, 1906.

Name.	Co.	Regiment.	Admitted.		Age	Rank.
			From.	Date.		
Barnes, Robert J....	K.	14th Ohio Inft.	Ohio	Aug. 10, 1905.	59	Private.
Braddish, Henry ....		23rd Ohio Inft.	Ohio	Aug. 26, 1905.	74	Private.
Burns, Henry .....	C.	79th Ohio Inft.	Ohio	June 13, 1906.	66	Private.
Johnson, James F...	M.	2nd Ohio Cav..	Ohio	Nov. 22, 1905.	62	Corp.

Average age, 65 years and 3 months.

Name.	Admitted.		Age.	Relation to Soldier.
	State.	Date.		
Babcock, Mollie M.....	Indiana .....	Sept. 3, 1892....	79	Sister.
Ball, Arminda A.....	Ohio .....	Nov. 8, 1900...	82	Mother.
Barnes, Hellen.....	Ohio .....	Aug. 10, 1905...	59	Wife.
Bartlett, Matilda .....	Ohio .....	Aug. 29, 1895...	71	Sister.
Berth, Julia M.....	Rhode Island...	Sept. 23, 1893...	81	Widow.
Braddish Susan E.....	Ohio .....	Aug. 26, 1905...	55	Wife.
Bradley, Clarissa .....	Ohio .....	Feb. 15, 1900....	65	Widow.
Burns, Mary Elizabeth.....	Ohio .....	June 13, 1906...	61	Wife.
Cobb, Eliza .....	Ohio .....	Dec. 23, 1899...	72	Widow.
Cochran, Phillis I.....	Ohio .....	Oct. 18, 1894....	87	Mother.
Davids, Esther .....	Ohio .....	Dec. 21, 1896...	72	Widow.
Elliott, Lucinda O.....	Ohio .....	Jan. 7, 1892....	81	Mother.
Evans, Maggie E.....	Ohio .....	June 29, 1897...	64	Daughter.
Evans, Mollie .....	Ohio .....	June 29, 1897...	63	Daughter.
Fostenberg, Mary .....	Massachusetts ..	June 29, 1897...	63	Wife.
Gage, Sarah M.....	New Jersey.....	Dec. 19, 1896...	67	Sister.
Johnson, Ellen .....	Ohio .....	Nov. 22, 1905...	62	Wife.
Lane, Sarah M.....	Michigan .....	Nov. 25, 1895...	69	Sister.
Luster, Hellen .....	Ohio .....	April 12, 1906..	70	Widow.
Manville, Melina J.....	Ohio .....	Oct. 21, 1894....	76	Sister.
McVey Charlotte .....	Ohio .....	Sept. 11, 1906...	77	Widow.
Morley, Emma L.....	Ohio .....	Nov. 24, 1905...	65	Widow.
Noggle, Mary .....	Ohio .....	May 2, 1896....	74	Sister.
Palmer, Lucy M.....	Vermont .....	Dec. 18, 1896...	65	Sister.
Pratt, Mary .....	Ohio .....	April 5, 1893....	91	Sister.
Rehren, Mary E.....	Ohio .....	Nov. 13, 1906...	83	Widow.
Smith, Mary .....	Ohio .....	July 1, 1896....	59	Sister.
Stannard, Lyda M.....	Ohio .....	Jan. 5, 1892....	79	Mother.
Sullivan, Catharine .....	Arizona .....	March 24, 1900..	.....	Widow.
Swan, Delia A.....	Ohio .....	Feb. 19, 1895....	82	Sister.
Varney, Louisa .....	Ohio .....	June 15, 1896...	72	Sister.
Weston, Hannah E.....	Missouri .....	July 31, 1896....	82	Sister.
Williams, Margaret .....	Kansas .....	Aug. 3, 1895....	82	Widow.
Woodford, Nancy J.....	Ohio .....	Oct. 9, 1899....	81	Mother.

Average age, 70 years and 6 months.

MEMBERSHIP.

Number members November 15, 1905, males.....	2
Number members November 15, 1905, females.....	34
	—
Total .....	36

GAIN.

Number admitted during year ending November 15, 1906, males.....	2
Number admitted during year ending November 15, 1906, females.....	9
	—
Total admitted .....	11
	—
Total number enrolled.....	47

LOSS.

DEATHS.

Name.	Where.	Date.	Where Buried.
Hannah Shidler .....	This Home..	March 22, 1906.	Home Cemetery.
Harriet M. Gildersleeve....	This Home..	April 24, 1906..	Covington, Ky.
Maria Montgomery .....	This Home..	May 28, 1906...	Geneva, Ohio.
Mary E. Truesdale.....	This Home..	June 12, 1906...	Home Cemetery.
Parmelea Bedortha .....	This Home..	June 14, 1906...	Home Cemetery.
Hellen M. Caterton.....	This Home..	July 5, 1906.....	Indianapolis, Ind.

Total number of deaths.....	6
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DISCHARGED.

Discharged because of mental condition, females.....	2
Discharged by own request, females.....	1
	—
Total number discharged .....	3
	—
Total loss .....	9

Number members present November 15, 1906, males.....	4
Number members present November 15, 1906, females.....	34
	—
Total number present November 15, 1906.....	38

Number of ex-soldiers.....	4
Number wives of ex-soldiers.....	5
Number widows of ex-soldiers.....	10
Number mothers of ex-soldiers.....	5
Number sisters of ex-soldiers.....	12
Number daughters of ex-soldiers.....	2
	—
Total .....	38



## NUMBER DRAWING PENSIONS.

Number ex-soldiers drawing \$8.00 per month.....	3
Number ex-soldiers drawing \$12.00 per month.....	1
Number widows drawing \$8.00 per month.....	5
Number widows drawing \$12.00 per month.....	1
	—
Total number drawing pensions.....	10

## MEMBERS PRESENT THAT HAD BEEN ADMITTED FROM OTHER STATES PRIOR TO THE STATE ASSUMING CONTROL.

Arizona .....	Widows .....	1
Indiana .....	Sisters .....	1
Kansas .....	Widows .....	1
Massachusetts .....	Wives .....	1
Michigan .....	Sisters .....	1
Missouri .....	Sisters .....	1
New Jersey.....	Sisters .....	1
Rhode Island.....	Widows .....	1
Vermont .....	Sisters .....	1
		—
	Total .....	9
Number wives from other states.....		1
Number widows from other states.....		3
Number sisters from other states.....		5
		—
Total .....		9

## EXPENSES.

The per capita cost based on the amount disbursed for subsistence, dry goods and notions, clothing, boots and shoes, medical attendance, drugs, fuel and light was \$125.81, and, including salaries of officers and employes, traveling expenses and expenses of the board of managers, was \$243.33.

It should be born in mind that when the State assumed control of this institution the entire equipment was in a dilapidated condition and practically worthless. The cooking utensils were worn out, facilities for doing the laundry work were inadequate, nothing in the way of refrigerators and cold storage, all farming implements, vehicles, harness and horse trappings worn out and of no practical use.

In the Ohio and Wittenmyer Cottages, it necessitated the expenditure of \$1,225.00 with which to purchase new carpets, linoleum, oil cloth, rugs and curtains, to replace those in use because of the fact that they were completely worn out and useless.

There has been expended for cows, farming implements, vehicles, harness and horse trappings, scales, coffee grinder, queensware and glassware, table linen and tableware, hardware consisting of tools and articles to replace those worn out, wooden and willowware, the sum of \$972.20.

The articles enumerated above were purchased to replace those that were practically worthless and of no use, and to meet the demands for performing the work necessary to be done.

The expenditures for repairs and improvements, for labor and material, including papering and painting interior of the Ohio and Wittenmyer Cottages, laundry machinery, laundry stove and water heater, stationary wash tubs, new bath tubs and plumbing, new closets and plumbing, pump, paints, oils, lumber, varnish, hardware, etc., was \$2,238.91.

A number of beds, springs and mattresses were in a condition unfit to be used, being worn out, uncomfortable and unsanitary. There was expended for furniture, including beds, springs and mattresses, the amount of \$211.70.

For a more complete and detailed account of the receipts and expenditures of this Home, I most respectfully refer you to the report of the Steward.

I am pleased to report, that, with the exception of a proper disposal of the sewage, a better and more efficient water supply, fire protection and hospital facilities, the conditions surrounding this institution have been greatly improved, and it is no disparagement to any former administration to say that at no time during the history of this home, have the conditions for carrying out the purpose for which it was created, been so favorable and satisfactory as at the present time.

All of the expenditures including subsistence, miscellaneous supplies, repairs and improvements, have been kept within the limited appropriation made by the legislature.

#### SEWAGE.

I most respectfully but earnestly renew my recommendations as set forth in my last annual report relative to establishing a sewage purification plant.

By direction of the Board of Managers, I made application to the State Board of Health relative to the disposal of the sewage of this Home, and also for an estimate of the cost of installing a sewage purification plant of sufficient capacity to meet the present and future needs.

In response to this request, R. Winthrop Pratt, engineer connected with the State Board of Health, met with the Board of Managers at the Home on October 21st, 1905, and made a careful examination of the present system of sewage, and conditions relative thereto.

The following is an extract from the report of Mr. Pratt, made to Dr. C. G. Probst, Secretary of the State Board of Health:

"There are at present from forty to fifty people living in the institution, about thirty of whom live in the main building and the remainder in a smaller building nearby."

"The Board of Managers contemplate building one or two more buildings in the immediate vicinity of the present buildings."

"The sewage from the main building, in which there are four water



closets is discharged through a tile pipe into a circular brick cesspool about twelve feet in diameter, located 250 feet north of the main building and covered with a rough wooden platform. There is an outlet or overflow from the cess pool near the top, from which the sewage flows to a small ditch several hundred feet farther north."

"The cesspool is said to be six or eight feet deep. At the time of inspection it was full of solid matter up to the overflow pipe."

"The bottom portion of the contents of the cesspool appeared to be sand and earth, washed in by rains from the grounds surrounding it, while the top one or two feet was thick sewage sludge, which created a decidedly offensive odor in the vicinity, although the day was cold."

"This has been the cause of complaint on the part of the occupants of the Home, as well as others living in the neighborhood within a fourth of a mile."

"The overflow from the cesspool discharges into a small ditch as above mentioned, located 500 feet farther north, near the northerly limits of the property of the Home. This ditch has a flat grade, and the foul liquid fills it above as well as below the sewer outlet; thus forming a pool of foul, offensive sewage several hundred feet long, located mostly upon land belonging to the institution, but also upon the property immediately east. From the pool the sewage flows down the ditch into a tile and thence into a small water course leading into Lake Erie. The discharge of the liquid overflowing from the cesspool, as well as from the cesspool itself, is a decided nuisance and a just cause of complaint on the part of those living nearby."

"The smaller building of the institution has no water closet, but is provided with a dry closet, the contents of which are hauled upon the land every week or two. The slops from this building are thrown out upon the ground, and a small amount of sink drainage is discharged into the garden."

"The methods now employed for disposing of the sewage from the institution are decidedly inefficient and detrimental to the health of all persons living at the Home and vicinity."

"In order to correct these conditions, a sewage purification plant, consisting of a properly constructed septic or settling tank, together with sand filters, should be installed as soon as possible."

The report was approved by Dr. C. O. Probst, Secretary of the State Board of Health, and on October 27th, 1905, he notified me that "At a meeting of the State Board of Health, held October 26, it was voted to approve the recommendation for establishing a sewage disposal plant at the Home and to assist you in any way possible in the matter."

The report describes, in a clear and explicit way, the conditions as they now exist, of the sewage disposal of this Home.



## WATER SUPPLY AND FIRE PROTECTION.

The question of a better and more efficient water supply and fire protection is still an unsolved problem.

So far as fire protection is concerned, we have none whatever, and should a fire break out, it is simply appalling to contemplate what the results in all probability would be, especially in buildings of this character, and occupied by fifty people, some of them being bedfast and almost entirely helpless, and the balance very old and feeble.

## ADMISSIONS.

The Act under which this Home is being operated, provides that "All honorably discharged soldiers, sailors, and marines, who served the United States government in the Civil War from 1861 to 1865, and who are citizens of Ohio at the date of the passage of this act, and are not able to support themselves and their wives, to whom they were married at any time prior to the year 1870, . . . . . their widows who were married prior to the year 1870, . . . . . may be admitted to this Home under such rules and regulations as may be adopted by the Board of Managers."

As shown by letters received, and applications on file in this office, there are a large number of ex-soldiers living in this State who do not, in their declining years, wish to be separated from their wives in order to go to a State or National Home, and for this they should be commended.

It is lamentable to see a man and his wife, who together have breasted the storms of life, and have reached that time in their lives when they are no longer able to provide for themselves, be compelled to separate in order that they may be separately cared for.

But how much more lamentable it is for a man, who has given the best years of his young manhood in response to his country's call, placing himself as a living sacrifice on her altar, to do and to die if need be, that the principles of justice and right might prevail, and who is now no longer able to provide the necessities of life, because perchance of wounds received in battle, or disease contracted in the line of duty, to be compelled to separate from his wife in order that he may be provided for at some State or National Home.

The same is true of the widows of ex-soldiers. A woman who may have married an ex-soldier on the 1st day of January, 1870, only five years after the close of the war, and who might in every way be worthy and eligible to be admitted to this Home, except for the fact that she was not married prior to the year 1870.

Unfortunately, that part of the Act fixing the marriage limit "At any time prior to the year 1870, is a bar to a very large majority, that cannot be crossed.

This is the reason, in fact it is the only reason that can be given why this Home is not filled to its fullest capacity at the present time.

Had the legislature at its last session amended the law and extended the marriage limit to 1880, as recommended in my last report, there would be, at the present time, at least seventy-five enjoying the benefits of this Home, as its friends intended they should.

The State of Wisconsin is maintaining a Home like this. The law determining the eligibility of applicants to become members, fixes the marriage limit June 27th, 1890, twenty years after that fixed by the State of Ohio. Wisconsin is erecting new buildings and increasing the capacity of her Home.

#### GARDEN AND FARM PRODUCTS.

There are about ten acres of ground that is available for cultivation, all of which was plowed and planted, and the yield was all that could be desired, and consisted of the following:

Beans .....	20 bushels.
Beets .....	50 bushels.
Cabbage .....	800 heads.
Corn .....	150 bushels.
Cucumbers .....	5000
Melons .....	300
Hubbard squash .....	50
Peas .....	20 bushels.
Potatoes .....	300 bushels.
Turnips .....	50 bushels.
Oats hay .....	1 ton.
Corn fodder .....	shocks.

#### FRUITS.

Apples, for winter use.....	50 bushels.
Apples, sold to cider mill.....	160 bushels.
Apples, made into cider for Home.....	100 bushels.
Grapes .....	100 baskets.

#### LIVE STOCK.

The Live stock consists of two horses, three milch cows and six head of hogs; the hogs to be slaughtered for the use of the Home.

#### THE W. R. C.

The thanks of the management of this Home are due and are hereby extended to the Relief Corps throughout the Department of Ohio G. A. R. for the very generous donations to this Home, consisting of canned fruits, jellies, pickles, aprons, muslins, pillow cases, and many other useful articles, for which we are truly grateful.

The very liberal donations from the Corps of this department is evidence of the interest manifested by them in the comfort and welfare of the members, and the success of the Home.

## ACKNOWLEDGEMENTS.

The thanks of the Superintendent and the Board of Managers are due and are hereby extended to Dr. J. V. Winans, who is by the authority of the Board, discharging the duties of Medical Officer of this Home.

The willing and prompt manner in which he responds to all calls, the intelligent and efficient discharge of the duties imposed upon him, is certainly gratifying, and is highly appreciated not only by the management but by all of the members.

Because of the length of time that he has been connected with the Home as its physician, he has learned the ailments of all the members, and by kind and courteous treatment he has won the respect and confidence of all.

Thanks are also due Mrs. Millie Weber, Matron, for the very satisfactory and efficient manner in which she is performing the duties of this office. She has by listening to the wants and administering to the needs of the members, won their confidence and love.

The employes have been faithful and have discharged their duties to the satisfaction of the management.

It is with satisfaction that I can report to you that the relations existing between the nurses, employes and the members are pleasant and agreeable, with no complaint from the members, because of any inattention or ill-treatment.

The members of the Home express satisfaction and contentment, and fully appreciate the way they are being cared for, and thankful that a place has been provided for by the great State of Ohio in which to spend the few remaining years of their lives.

In closing this report I desire to extend to you as individuals and as members of the Board, my most sincere and heartfelt thanks for the confidence and trust you have placed in me, for the kind advice and suggestions, the hearty encouragement and loyal support, all of which have aided me in the discharge of my duties as Superintendent.

Respectfully submitted,

WALTON WEBER,  
*Superintendent.*

Madison, Ohio, November 15th, 1906.



## STEWARD'S REPORT.

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THE HOME OF THE OHIO SOLDIERS, SAILORS, MARINES, THEIR WIVES,  
WIDOWS, MOTHERS AND ARMY NURSES.

MADISON, OHIO, November 15th, 1906.

WALTON WEBER, *Superintendent*:

DEAR SIR:—I have the honor to submit herewith the report of the receipts and disbursements including all of the financial transactions of this institution for the year ending November 15, 1906.

Respectfully submitted,

J. CORY WINANS,  
*Steward.*

STATEMENT SHOWING AMOUNT IN STATE TREASURY NOVEMBER 15, 1905, AND AMOUNT APPROPRIATED FOR THE FISCAL YEAR ENDING NOVEMBER 15, 1906, AND THE FIRST QUARTER OF 1907.

Name of Appropriation.	Balance in State Treasury November 15, 1905.	Amount Appropriated for year ending November 15, 1906 and first quarter of 1907.	Amount in State Treasury subject to draft during fiscal year ending November 15, 1906, and first quarter of 1907.	Amount drawn from State Treasury for the year ending November 15th, 1906.	Balance in State Treasury, November 15th, 1906.
Maintenance .....	\$10,474 34	\$12,500 00	\$22,974 34	\$15,083 55	\$7,890 79
Repairs and Improvements .....	.....	1,500 00	1,500 00	590 47	909 53
Gas Lighting Plant. ....	.....	1,000 00	1,000 00	.....	1,000 00

STATEMENT SHOWING AMOUNT DISBURSED FROM NOVEMBER 15, 1905, TO NOVEMBER 15, 1906.

Name of Appropriation.	Month ending Dec. 15, 1905.	Month ending Jan. 15, 1906.	Month ending Feb. 15, 1906.	Month ending Mar. 15, 1906.	Month ending Apr. 15, 1906.	Month ending May 15, 1906.	Month ending June 15, 1906.	Month ending July 15, 1906.	Month ending Aug. 15, 1906.	Month ending Sept. 15, 1906.	Month ending Oct. 15, 1906.	Month ending Nov. 15, 1906.	Total Expenditures.	Total Expenditures for the Year.
Maintenance .....	\$815 48	\$981 43	\$820 92	\$816 20	\$1,852 66	\$5,100 62	\$1,578 20	\$622 69	\$800 91	\$554 78	\$594 68	\$544 98	\$15,083 55	\$15,674 02
Repairs and Improvements.....	.....	.....	.....	.....	.....	.....	.....	193 32	310 05	2 72	84 38	.....	590 47	.....



## MAINTENANCE.

On What Account.	Amount.	Total.
Blacksmithing .....	\$19 00	
Blank Books and Stationery.....	62 45	
Boots and Shoes.....	14 35	
Breadstuffs .....	222 78	
Brooms and Brushes .....	21 15	
Butter .....	380 03	
Carpets and Curtains .....	1,178 00	
Canned Goods .....	421 58	
Clothing and Underware.....	130 55	
Cutlery .....	16 29	
Candies, Nuts and Ice Cream.....	8 84	
Dried Fruits .....	77 85	
Drugs .....	186 55	
Dry Goods and Notions .....	169 39	
Eggs .....	133 09	
Electrical Supplies .....	7 00	
Farm Implements .....	75 50	
Fish and Oysters .....	48 31	
Freight and Express.....	211 11	
Fresh Fruits and Berries.....	45 79	
Forage and Feed .....	289 45	
Fuel .....	1,110 13	
Funeral Expenses .....	134 50	
Furniture .....	211 70	
Groceries .....	827 72	
Hardware .....	24 09	
Harness and Horse Trappings.....	54 20	
Kitchen Utensils .....	36 86	
Labor "Miscellaneous" .....	335 85	
Laundry Supplies .....	121 00	
Light .....	322 85	
Meats and Lard .....	441 87	
Medical Services .....	122 00	
Milk .....	27 56	
Miscellaneous .....	346 67	
Oils .....	1 60	
Plants, Seeds and Bulbs .....	8 00	
Postage and P. O. Box Rent.....	46 14	
Poultry, dressed .....	60 96	
Queensware and Glassware .....	79 36	
Repairs "Miscellaneous" .....	21 60	
Stock, "Live" .....	76 50	
Telephone and Telegraph .....	82 05	
Tobacco .....	80	
Traveling expenses .....	169 11	
Vegetables .....	46 44	
Vehicles .....	531 00	
Wooden and Willowware .....	8 54	
Expenses, Board of Managers .....	310 26	
Pay Roll, Male .....	1,719 96	
Pay Roll, Female .....	3,436 73	
		\$13,435 11

## FINANCIAL STATEMENT.

On What Account.	Amount.	Total.
Amt. brought forward.....		\$13,435 11
<i>Repairs and Improvements.</i>		
Material for Improvements .....	\$1,622 68	
Labor for Improvements .....	616 23	
		\$2,238 91
Total Expenditures .....		\$15,674 02
<i>Blacksmithing.</i>		
Making Iron Rod .....	\$0 25	
Repairing harrow .....	75	
Shoeing horses .....	18 00	
		\$19 00
<i>Blank Books and Stationery.</i>		
Application Blanks, 1,000.....	\$14 00	
Bill heads, 1,000 .....	2 50	
Envelopes, 6 $\frac{3}{4}$ , 2,800.....	7 31	
Envelopes, No. 10, 3,200.....	15 07	
Letter heads, 7,000 .....	28 57	
		\$62 45
<i>Boots and Shoes.</i>		
Men's Shoes, 3 pairs.....	\$5 25	
Rubbers, 1 pair.....	60	
Women's Shoes, 6 pairs.....	8 50	
		\$14 35
<i>Breadstuffs.</i>		
Baking Powder, 96 lbs .....	\$14 50	
Buckwheat flour, 230 lbs.....	5 75	
Cereals .....	2 00	
Crackers, 436 lbs .....	30 36	
Corn Meal, 200 lbs .....	4 25	
Flour, 31 bbls .....	138 80	
Graham crackers, 29 lbs.....	2 84	
Graham flour, 20 lbs.....	50	
Oat Meal, 698 lbs.....	20 23	
Rye Bread, 1 loaf.....	05	
Yeast, 7 dozen.....	3 50	
		\$222 78
<i>Brooms and Brushes.</i>		
Brooms, 6 $\frac{1}{2}$ dozen.....	\$19 40	
Scrub Brushes, 1 dozen.....	1 75	
		\$21 15
<i>Butter.</i>		
Butter, 1,690 lbs.....	\$380 03	
		\$380 03

## FINANCIAL STATEMENT — Continued.

On What Account.	Amount.	Total.
<i>Carpets and Curtains.</i>		
Carpets, 983 $\frac{3}{4}$ yards .....	\$973 23	
Carpet paper, 550 yards .....	24 75	
Carpet paper, 1 roll .....	1 00	
Curtains, 21 pairs .....	96 50	
Curtains, Swiss, 91 $\frac{3}{4}$ yards .....	21 61	
Curtain hooks, 1 dozen .....	50	
Curtain loops and ties, 13 pairs .....	1 45	
Curtain rods, $\frac{1}{2}$ gross.....	1 68	
Linoleum, 48 sp. yds.....	40 08	
Oil carpet, 19 $\frac{1}{2}$ yds.....	4 05	
Rugs, 1 .....	4 50	
Rug binding, 1 bolt.....	20	
Stair pads, 5 $\frac{2}{3}$ dozen.....	8 50	
		\$1,178 00
<i>Canned Goods.</i>		
Apricots, 20 doz. cans.....	\$32 00	
Assorted fruits, 30 quarts.....	11 38	
Cherries, 10 doz. cans.....	22 50	
Corn, 116 dozen cans.....	77 00	
Peaches, 60 dozen cans.....	117 00	
Peas, 66 dozen cans .....	70 30	
Plums, 20 dozen cans.....	33 00	
Pumpkins 1 doz. cans .....	1 00	
Tomatoes, 52 dozen cans.....	57 40	
		\$421 58
<i>Clothing and Underwear.</i>		
Coat and vest, 1 each.....	\$6 75	
Corsets, 2 .....	1 00	
Gloves, 1 pair .....	25	
Hats, women's, 5 .....	8 45	
Hose, women's, 5 dozen pair.....	11 35	
Hose, men's, 1 $\frac{1}{8}$ dozen pairs.....	2 75	
Overalls, 1 pair.....	1 00	
Shirts, 1 $\frac{1}{4}$ dozen.....	11 00	
Suits, men's, 2.....	22 00	
Suspenders, 2.....	50	
Underwear, women's, 4 $\frac{1}{4}$ doz. suits.....	12 00	
Underwear, men's, 1 suit .....	1 00	
Underwear, women's, 22 pieces .....	5 50	
Wrappers, women's, 5 $\frac{1}{8}$ dozen .....	47 00	
		\$130 55
<i>Confectionery.</i>		
Candies, assorted, 31 $\frac{1}{4}$ pounds.....	\$5 14	
Ice Cream, 2 gallons.....	2 00	
Nuts, 12 lbs .....	1 70	
		\$8 84



## FINANCIAL STATEMENT — Continued.

On What Account.	Amount.	Total.
<i>Cutlery.</i>		
Bread knives, $\frac{1}{4}$ doz.....	\$0 56	
Butcher knives, $\frac{1}{2}$ doz.....	2 92	
Knives and forks, plated, 4 sets.....	11 40	
Mince knives, $\frac{1}{4}$ doz.....	31	
Pearing knives, $\frac{1}{2}$ doz.....	60	
Scissors, 1 pair.....	50	
		\$16 29
<i>Dried Fruits.</i>		
Apricots, 160 lbs.....	\$12 80	
Peaches, 250 lbs.....	31 00	
Prunes, 287 lbs.....	22 25	
Raisins, 158 lbs.....	11 80	
		\$77 85
<i>Drugs.</i>		
Drugs .....	\$186 55	
		\$186 55
<i>Dry Goods.</i>		
Belts, 1 .....	\$0 50	
Braid, $7\frac{1}{2}$ yds .....	30	
Buttons, dress, 18 doz.....	3 15	
Buckles, 1 .....	18	
Calico, $122\frac{3}{4}$ yds .....	5 93	
Chiffon, $1\frac{2}{3}$ yds.....	44	
Combs, $1\frac{1}{2}$ doz .....	2 70	
Cord, 1 yard .....	02	
Cotton goods, 10 yards .....	90	
Crash, 40 yds .....	3 50	
Damask, 46 yds.....	26 79	
Elastic, 1 yard.....	08	
Flannel, 2 yds.....	32	
Gingham, $36\frac{1}{2}$ yds.....	2 03	
Goods, $9\frac{3}{4}$ yds .....	3 42	
Hair brushes, $\frac{1}{3}$ doz.....	1 76	
Handkerchiefs, 1 doz.....	3 00	
Hooks and Eyes, 1 dozen cards.....	60	
Lace, $1\frac{1}{2}$ yds.....	29	
Muslin, $378\frac{1}{2}$ yds.....	62 52	
Napkins, 6 doz.....	9 50	
Netting, 2 yds .....	12	
Pins, 13 papers .....	67	
Safety pins, 6 gross.....	3 00	
Scarf linen, 13 yards.....	1 95	
Shoe laces, 1 dozen.....	15	
Silk, 2 yards .....	1 00	
Table felt, 28 yards .....	11 20	
Thread, $28\frac{1}{2}$ doz.....	11 28	
Towels, 7 dozen.....	10 13	
Yarn, 8 skeins .....	1 96	
		\$169 39

FINANCIAL STATEMENT — Continued.

On What Account.	Amount.	Total.
<i>Eggs.</i>		
Eggs, 730½ dozen .....	\$133 09	\$133 09
<i>Electrical Supplies.</i>		
Electric batteries, 12 .....	\$3 00	\$7 00
Electric flashlights, 2.....	4 00	
<i>Farm Implements.</i>		
Cultivators, 1 .....	\$8 50	\$75 50
Mowers, 1 .....	50 00	
Plows, 1 .....	10 00	
Seed drills, 1 .....	7 00	
<i>Fish and Oysters.</i>		
Fish, cod, 18 lbs.....	\$2 06	\$48 31
Fish, fresh, 295 lbs.....	40 64	
Oysters, 4½ gallons .....	5 61	
<i>Freight and Express</i>		
Express .....	\$16 21	\$211 11
Freight .....	194 90	
<i>Fresh Fruits and Berries</i>		
Apples. 1¼ bushels .....	\$1 33	\$45 79
Bananas, 35½ dozen .....	7 10	
Cherries, 24 qts.....	1 20	
Cranberries, 25 qts.....	3 00	
Grapes, 2 lbs .....	20	
Lemons, 30 dozen .....	8 00	
Oranges, 30 dozen.....	16 54	
Pine apples, 2 only.....	30	
Strawberries, 114 qts .....	8 12	
<i>Forage and Feed.</i>		
Bran, 7,100 lbs .....	\$74 10	\$289 45
Chop feed, 6,300 lbs.....	80 45	
Corn meal, 3,300 lbs.....	41 15	
Corn, 36 bushels .....	20 22	
Cracked corn, 556 lbs.....	7 63	
Hay, 13,865 lbs .....	40 19	
Kafir corn, 150 lbs .....	2 48	
Mixed feed, 200 lbs.....	2 80	
Oats, 30¾ bushels .....	12 28	
Screenings, 1 bushel .....	45	
Straw, 1 load .....	3 00	
Wheat, 5 bushels .....	4 70	

## FINANCIAL STATEMENT — Continued.

On What Account.	Amount.	Total.
<i>Fuel.</i>		
Anthracite coal, 131.1 gross tons.....	\$710 30	
Anthracite coal, 26½ net tons .....	158 85	
Massillon soft lump, 39 tons and 80 lbs.....	143 28	
Gasoline, engine and stove, 267½ gals.....	97 70	
		\$1,110 13
<i>Funeral Expenses.</i>		
Burial caskets, 4.....	\$100 00	
Burial robes, 4 .....	21 50	
Digging graves, 4 .....	8 00	
Embalming body, 1.....	5 00	
		\$134 50
<i>Furniture.</i>		
Bedsteads, iron, 4.....	\$16 50	
Chairs, rocking, 2.....	10 00	
Davenport bed, 1 .....	35 00	
Library table, 1 .....	15 00	
Mattresses, 13 .....	97 00	
Springs, 14 .....	38 20	
		\$211 70
<i>Groceries.</i>		
Allspice, 11 lbs.....	\$2 30	
Applebutter, 200 lbs.....	14 00	
Catsup, 12 gallons.....	6 00	
Cheese, 77 lbs .....	11 89	
Cinnamon, 12½ lbs.....	3 38	
Citron, ¾ lb .....	23	
Cloves, 10 lbs .....	2 30	
Cocoa, 12 dozen.....	4 20	
Cocoanut, 9 lbs.....	1 62	
Coffee, 950 lbs .....	164 00	
Corn starch, 58 lbs .....	3 50	
Cottage cheese, 65 quarts .....	3 40	
Cream tartar, 19 lbs.....	6 75	
Ginger, 10 lbs .....	1 60	
Gold Dust, 18 packages.....	5 70	
Hominy, 20 lbs .....	1 00	
Jello, 4 dozen .....	3 60	
Lemon Extract, 7 bottles.....	1 00	
Lemon Extract, 4 quarts .....	4 13	
Lye, concentrated, 23 dozen.....	23 00	
Macaroni, 25 lbs.....	1 75	
Mace, .....	40	
Maple Syrup, 15 gallons.....	15 00	
Mixed spices, 20 lbs.....	3 00	
Molasses, 13¼ gallons .....	3 70	
Mustard, prepared .....	1 80	
Mustard seed, 11 lbs .....	2 80	
Nutmegs, 3 lbs .....	3 00	
Olives, 4 5/12 doz. bottles.....	6 75	
Pepper, 25½ lbs .....	3 15	
Rice, 400 lbs .....	26 00	



FINANCIAL STATEMENT — Continued.

On What Account.	Amount.	Total.
<i>Groceries — Concluded.</i>		
Sapolio, 2½ doz.....	5 00	
Sardines, 14⅔ doz.....	23 25	
Salmon .....	25	
Soda, 84 lbs .....	4 89	
Soup, assorted, 32 dozen cans.....	28 80	
Soup, chicken, 4 dozen cans.....	3 60	
Soup, tomato, 8 dozen cans.....	7 60	
Sugar, granulated, 4,074 lbs.....	199 89	
Sugar, light brown, 1,000 lbs.....	45 50	
Sugar, pulverized, 120 lbs.....	6 03	
Sugar, cut loaf, 25 lbs.....	1 24	
Sugar, maple, 2½ lbs.....	27	
Sweet Gherkins, 1 7/12 dozen. quarts.....	3 80	
Sour Gherkins, 4 dozen, 20 oz.....	7 00	
Table salt, 1 barrel .....	1 90	
Tapioca, 20 lbs.....	1 40	
Tea, 373 lbs .....	152 35	
Vanilla extract, 3 bottles.....	75	
Vanilla extract, 2 quarts.....	3 25	
		\$827 72
<i>Hardware.</i>		
Bolts, 342 .....	\$3 35	
Can openers, 1 .....	10	
Coffee pots, granite, 2.....	1 45	
Corn cutters, 1 .....	35	
Corn poppers, 1 .....	25	
Cuspidores, 1 .....	30	
Crumb trays .....	1 50	
Floor hooks, 2 .....	10	
Galvanized iron pails, 4 .....	1 80	
Granite pitchers, 3 .....	1 75	
Hammers, tack, ½ dozen.....	1 00	
Hoes, garden, 5/12 dozen.....	1 47	
Picture nails, 3 dozen.....	60	
Picture wire, 1 package.....	15	
Potato hooks, 1 only.....	50	
Rakes, garden, ¼ dozen .....	1 13	
Saws, kitchen, 1.....	35	
Scoops, ⅙ dozen .....	2 00	
Scythes, 1 only .....	1 00	
Shovels, D handle, ⅙ dozen.....	66	
Shovels, fire, ¼ dozen .....	38	
Tacks, 7 boxes .....	35	
Tea spoon, plated, 2 dozen.....	2 00	
Tinners' snips, 1 pair.....	1 25	
Washers, iron, 3 lbs.....	30	
		\$24 09
<i>Harness and Horse Trappings.</i>		
Blankets, 2 .....	\$12 00	
Harness, 1 set, double.....	40 00	
Nets, 1 .....	1 50	
Straps, 1 .....	20	
Tail holders, 2 .....	50	
		\$54 20

FINANCIAL STATEMENT — Continued.

On What Account.	Amount.	Total.
<i>Kitchen Utensils.</i>		
Basting spoons, $\frac{1}{2}$ dozen.....	\$0 45	
Bread pans, 1 dozen .....	75	
Cake turners, $\frac{1}{2}$ dozen .....	37	
Coffee pots, $\frac{1}{6}$ dozen.....	1 63	
Colanders, $\frac{1}{6}$ dozen .....	21	
Covered buckets, 1 dozen.....	2 65	
Drinking cups, 2 dozen.....	1 50	
Dippers, $\frac{1}{2}$ dozen .....	1 38	
Dish pans, granite, $\frac{1}{2}$ dozen.....	6 00	
Drip pans, $\frac{1}{4}$ dozen.....	34	
Dust pans, 1 dozen.....	75	
Egg beaters, $\frac{1}{4}$ dozen.....	38	
Flour sifters, $\frac{1}{4}$ dozen.....	31	
Fry pans, $\frac{1}{4}$ dozen .....	75	
Funnels, $1\frac{1}{8}$ dozen .....	1 32	
Griddles, long, 3 only.....	1 20	
Japaned trays, 1 dozen .....	1 76	
Jell cake pans, 2 dozen.....	90	
Milk pails, $\frac{1}{4}$ dozen.....	1 62	
Milk skimmers, $\frac{1}{4}$ dozen.....	15	
Muffin pans, $\frac{1}{3}$ dozen .....	40	
Nutmeg graters, $\frac{1}{2}$ dozen.....	58	
Pails, covered, $\frac{1}{4}$ dozen .....	56	
Pie pans, aluminum, 1 dozen.....	2 40	
Potato mashers, $\frac{1}{2}$ dozen .....	20	
Pudding pans, 1 dozen.....	1 43	
Spiders, $\frac{1}{4}$ dozen .....	1 62	
Strainer Spoons, $\frac{1}{4}$ dozen.....	21	
Tin pot covers, 1 dozen.....	50	
Tea pots, $\frac{1}{2}$ dozen.....	1 04	
Tea strainers, 1 dozen.....	75	
Water buckets, $\frac{1}{2}$ dozen.....	2 75	
		\$36 86
<i>Labor, "Miscellaneous."</i>		
Drayage .....	\$0 25	
Grinding corn .....	55	
Hauling coal .....	58 42	
Hauling and packing ice.....	13 20	
Killing and dressing 6 hogs.....	6 00	
Laundry work .....	178 61	
Laying carpets .....	59 63	
Making cider .....	2 74	
Moving organ .....	1 00	
Notary fees .....	3 50	
Seamstress .....	1 25	
Stenographer services .....	4 95	
Trimming grape vines .....	1 50	
Work in dining room .....	4 25	
		\$335 85
<i>Laundry Supplies.</i>		
Bench, for wringer, 1 only.....	\$1 10	
Blueing, $4\frac{1}{4}$ dozen.....	2 05	
Clothes pins, 10 boxes .....	50	

## FINANCIAL STATEMENT — Continued.

On What Account.	Amount.	Total.
<i>Laundry Supplies — Concluded.</i>		
Ironing boards, $\frac{3}{4}$ dozen.....	7 50	
Sad irons, 76 lbs.....	2 66	
Soap, cooline, 1 box.....	4 00	
Soap, ivory, 1 box.....	4 00	
Soap, in bulk, 50 lbs.....	2 63	
Soap, Lenox, 28 boxes.....	76 20	
Soap, naphtha, 2 boxes.....	7 85	
Soap, toilet, $4\frac{1}{2}$ dozen.....	2 50	
Starch, 300 lbs .....	8 51	
Wash boilers, 1 only.....	1 50	
		\$121 00
<i>Light.</i>		
Coal oil, 568 gallons .....	\$69 98	
Gasoline, 87 degree, 1165 $\frac{1}{2}$ gallons.....	252 87	
		\$322 85
<i>Meats and Lard.</i>		
Bacon, 456 lbs.....	\$55 94	
Beef, dried, 30 $\frac{1}{2}$ lbs.....	5 37	
Beef, dried, 1 $\frac{1}{4}$ dozen cans.....	3 50	
Beef, fresh, 2,780 lbs.....	247 83	
Hams, smoked, 230 lbs.....	30 09	
Lard, 272 lbs .....	27 80	
Mutton, 39 lbs.....	3 90	
Pork, fresh, 373 lbs.....	49 46	
Pork, salt, 16 lbs.....	1 60	
Sausage, 115 lbs .....	11 45	
Veal, 45 lbs .....	4 93	
		\$441 87
<i>Medical Services.</i>		
Medical services .....	\$122 00	
		\$122 00
<i>Milk.</i>		
Milk, 692 quarts .....	\$27 56	
		\$27 56
<i>Miscellaneous.</i>		
Bon-Ami, 2 boxes.....	\$0 20	
Belt laces, 6 .....	60	
Boarding hog, 5 weeks .....	1 75	
Can rubbers, 1 gross .....	75	
Carpet sweepers, $\frac{1}{2}$ dozen .....	11 25	
Carriage dusters, 2 .....	1 40	
Cement, 1 bottle .....	15	
Chain, 7 $\frac{1}{2}$ lbs .....	60	
Chamois skin, 2 only .....	1 05	
Christmas decorations .....	1 25	
Coffee grinder, 1 .....	25 00	
Columbus Dispatch, 1 year .....	7 00	



FINANCIAL STATEMENT — Continued.

On What Account.	Amount.	Total.
<i>Miscellaneous—Concluded.</i>		
Disinfectant, 25 lbs .....	5 55	
Flags, for decorating, 4 doz.....	35	
Fertilizer, 400 lbs.....	4 00	
Feed cooker, 1 only .....	10 80	
Gasoline oven, 1 only.....	2 50	
Hand bellows, 1 only.....	75	
Ice, 9 loads .....	4 50	
Ice, 55½ tons.....	113 35	
Insect exterminator .....	2 00	
Lamp chimneys, 1 dozen.....	1 10	
Lamp burners, ½ dozen.....	60	
Lamps, complete, 1 dozen.....	7 90	
Lamp wicks .....	1 08	
Lap robes, 2 .....	2 70	
Livery and stable room .....	12 05	
Matches, 3½ gross .....	2 55	
Matches, 1 case .....	3 50	
Match safe, 1 only .....	25	
Mops, ⅔ dozen .....	1 40	
Mucilage, 1 bottle .....	05	
Packing, 1 ball .....	05	
Paper, carbon, 1 box.....	2 00	
Paper, fly, 2 packages.....	70	
Paper, toilet, 2½ cases .....	19 30	
Paper, for typewriter, 2 boxes.....	1 50	
Plaster paris, 2 lbs.....	10	
Powder, ¼ lb.....	10	
Pulleys, 2 double .....	1 10	
Rat traps, 2 .....	1 50	
Rope, 36 lbs.....	4 24	
Rosin, 3 lbs .....	15	
Salt, 2 barrels .....	2 00	
Service of bull .....	5 00	
Service of boar.....	1 00	
Shoe blacking, 1 box.....	10	
Shot, 1 lb.....	10	
Slop jars, 3 only.....	1 20	
Snuff, 2 boxes .....	20	
Stock powders, 12 packages.....	5 55	
Stock powders, 1 pail.....	75	
Spavin salve, 1 box.....	25	
Sprayer, 1 only .....	5 00	
Scales, 1 only .....	19 80	
Scales, 1 only .....	9 60	
Sewing machines, 2 only.....	31 50	
Shelf paper, 1 dozen packages.....	40	
Stone jars, 1 30-gallon.....	3 00	
Tarred Twine, 9½ lbs.....	95	
Wagon jack, 1 only.....	1 25	
Wax tapers, 1 box.....	05	
Wood alcohol .....	25	
		\$346 67
<i>Oils.</i>		
Engine oil, 2 gallons.....	\$1 00	
Machine oil, 1½ gallons.....	60	
		\$1 60

## FINANCIAL STATEMENT — Continued.

On What Account.	Amount.	Total.
<i>Plants Seeds and Bulbs.</i>		
Assorted seeds and plants.....	\$8 00	\$8 00
<i>Postage and Box Rent.</i>		
Postage .....	\$44 94	\$46 14
P. O. box rent.....	1 20	
<i>Poultry.</i>		
Chickens, dressed, 144 lbs.....	\$18 66	\$60 96
Turkeys dressed, 212 lbs.....	42 30	
<i>Queensware and Glassware.</i>		
Bakers, 1½ dozen .....	\$5 65	\$79 36
Celery trays, 2 only.....	2 00	
Cups and saucers, 6 dozen.....	6 00	
Dishes, covered, 2 dozen.....	4 00	
Dishes, oatmeal, 3 dozen.....	4 20	
Dishes, salad, 3 dozen.....	6 20	
Dishes, 10 inches, ½ dozen.....	2 11	
Ewer and basin, 1 only.....	1 75	
Individual butters, 4 doz.....	1 32	
Jars, glass, 2 only.....	1 00	
Jugs, 12-E, ½ dozen.....	3 00	
Plates, assorted, 1 11/12 dozen.....	2 10	
Plates, 7 inches, 6 dozen.....	5 88	
Plates, bread and butter, 1 dozen.....	5 00	
Plates, dessert, 1 dozen.....	6 00	
Peppers, 1 dozen.....	2 75	
Salts, 1 dozen .....	2 75	
Saucers, fruit, 2 dozen.....	1 60	
Toilet sets, 2 only.....	14 25	
Tumblers, 1 dozen.....	1 30	
<i>Repairs, "Miscellaneous."</i>		
Repairing carriage lamp.....	\$0 20	\$21 60
Repairing grind stone.....	25	
Repairing milk pail.....	25	\$21 60
Repairing and lettering wagon.....	17 45	
Repairing shoes .....	3 20	\$21 60
Repairing wringer .....	25	
<i>Stock, "Live."</i>		
Cows, 1 only .....	\$35 00	\$76 50
Hogs, 5 only.....	41 50	

## FINANCIAL STATEMENT—Concluded.

On What Account.	Amount.	Total.
<i>Telephone and Telegraph.</i>		
Message and toll service.....	\$43 40	
Telephone rental .....	27 00	
Telegraph .....	11 65	\$82 05
<i>Traveling Expenses.</i>		
Walton Weber, Superintendent.....	\$141 70	
Millie Weber, Matron .....	14 80	
D. C. Beggs & Co., man laying carpets.....	7 31	
Margaret McSherry, railroad fare to Columbus.....	5 30	\$169 11
<i>Tobacco.</i>		
Tobacco, 15 papers.....	\$0 80	\$0 80
<i>Vegetables.</i>		
Celery, 7 dozen bunches.....	\$3 00	
Hubbard Squash, 150 lbs.....	1 50	
Lima beans, 161 lbs.....	10 46	
Onions, green, 1 $\frac{3}{4}$ doz. bunches.....	60	
Onions, 6 $\frac{1}{4}$ bushels.....	3 45	
Parsnips, $\frac{1}{2}$ bushel .....	50	
Potatoes, 36 bushels .....	16 65	
Sweet potatoes, 69 lbs.....	1 85	
Radishes, 1 $\frac{1}{2}$ doz. bunches.....	45	
Sauer Kraut, 60 $\frac{1}{2}$ lbs.....	7 48	
Turnips, 1 bushel .....	50	\$46 44
<i>Wooden and Willowware.</i>		
Wooden buckets, 1 only.....	\$0 10	
Wooden baskets, $\frac{1}{2}$ dozen.....	18	
Wooden bowls, $\frac{1}{3}$ dozen.....	1 17	
Wooden rolling pins, $\frac{1}{2}$ dozen.....	37	
Wooden spoons, $\frac{1}{4}$ dozen.....	10	
Willow baskets, $\frac{1}{2}$ dozen.....	6 62	\$8 54
<i>Vehicles.</i>		
Carriage .....	\$360 00	
Express and baggage wagon.....	171 00	\$531 00
<i>Expenses, Board of Managers.</i>		
George F. Robinson.....	\$75 70	
P. H. Bruck.....	87 43	
J. Cory Winans .....	108 58	
A. C. Yengling .....	38 55	\$310 26



MALE PAY ROLL.

Name.	Occupation.	Mos.	Days.	Amount.
Walton Weber .....	Superintendent .....	12	.....	\$999 96
J. Cory. Winans.....	Steward .....	12	.....	240 00
Eli Duesler .....	Gardner and janitor.....	12	.....	240 00
William F. Crowley.....	Driver .....	12	.....	240 00
	Total .....			\$1,719 96

FEMALE PAY ROLL.

Name.	Occupation.	Mos.	Days.	Amount.
Millie Weber .....	Matron .....	12	.....	\$360 00
Clara Wiker .....	Nurse .....	12	.....	300 00
Emma Fitch .....	Nurse .....	12	.....	240 00
Prudia M. Williams.....	Nurse .....	12	.....	216 00
Minnie Everts .....	Nurse .....	9	.....	162 00
Nellie Burns .....	Chief cook .....	12	.....	264 00
Ella Dow .....	Assistant cook .....	8	8	148 80
Mamie Saxton .....	Assistant cook .....	3	7	58 20
Nancy McMahan .....	Assistant cook .....		15	9 00
Nellie Griffin .....	Laundress .....	10	25	195 00
Emma Donahue .....	Dining room girl.....	9	10	149 33
Mamie Barry .....	Dining room girl.....	1	11	21 86
Mamie Saxton .....	Dining room girl.....		15	9 00
Mamie Barry .....	Asst. dining room girl....	9	4	127 87
Julia Everetts .....	Asst. dining room girl....	2	10	32 67
Nancy McMahan .....	Kitchen girl .....	11	15	138 00
Lillie Keener .....	Kitchen girl .....		15	5 00
	Total .....			\$2,436 73

MATERIAL FOR IMPROVEMENTS.

For What Purpose.	Amount.
Angle irons, 6 dozen.....	\$1 50
Bath tubs, 3 .....	100 00
Brushes, 9 .....	7 75
Butts, L. P., 32½ pairs.....	2 60
Cement, 19 sacks .....	12 05
Clamp for furnace, 1.....	15

## MATERIAL FOR IMPROVEMENTS — Concluded.

For What Purpose.	Amount.
Couplings, 1 .....	05
Door bolts, 1 .....	25
Door buttons, japaned, 6 doz. ....	60
Ells, plumbing, 9 .....	64
Floor filler, 50 lbs. ....	9 00
Four qr. beads .....	1 00
Glue, for sizing walls, 12 lbs. ....	1 80
Hangers for barn door, 1 pair .....	60
Hasp and staples, 1 .....	10
Hinges, 1 pair .....	10
Hinges, spring, 6 pairs .....	1 20
Hinges, strap, 2 pair .....	25
Laundry machinery .....	840 40
Lead and cement rep. furnace .....	45
Lime, 1 sack .....	25
Lumber, 3,130 feet .....	62 14
Nails, 229 lbs .....	7 15
Nipples for plumbing, 3 .....	30
Oil cup for journal, 1 .....	08
Oil, linseed, 20 gallons .....	11 00
Paint, bronze, 2 cans .....	1 15
Paint, chrome yellow, 2 cans .....	50
Paint, green, 1 can .....	25
Paint, oak graining, 1 can .....	25
Paint, prussian blue, 2 cans .....	85
Paint, vermillion, 5 cans .....	1 50
Paint, 3½ quarts .....	1 95
Paint, assorted, 5 cans .....	1 65
Paint, venetian red, dry, 2 lbs. ....	06
Paint, yellow ocher, dry, 9 lbs. ....	27
Paper, tarred for roofing, 12 rolls ..	14 25
Paper, for walls and halls, 444 rolls ..	74 58
Paper, for border, 11½ yards .....	69
Paper, sand, 1 doz. sheets .....	25
Plaster, 4½ sacks .....	2 35
Plumbing contract for closets .....	170 00
Pipe, lead, 37½ lbs. ....	3 75
Pipe, soil, 9½ ft. ....	1 89
Poultry netting, 1,200 sq. ft. ....	9 00
Pump, 1 .....	90 00
Putty, 7 lbs. ....	35
Screws, 3½ gross .....	90
Shelac and Japan, 3 qts. ....	1 85
Stove and water heater for laundry ..	103 00
Tank for closet, 1 .....	3 00
Trap for cess pool, 1 .....	1 75
Turpentine, 7½ gallons .....	5 55
Valves for plumbing, 3 .....	30
Varnish, 5¼ gallons .....	17 00
White lead, 400 lbs. ....	29 25
Wire cloth, 491 feet .....	12 94
Wire, insulated .....	15
Wire staples, 2 lbs .....	20
Wash tub, stationary for laundry .....	6 64
Iron smoke pipe for furnace, 40 lbs. ....	3 20
Total .....	\$1,622 68

## LABOR IMPROVEMENTS.

For What Purpose,	Amount.
Architect expenses .....	\$12 77
Architect services .....	285 00
Carpenter work, 31½ days.....	62 90
Cement work, 5½ days.....	16 50
Labor, repairing closets, 2 hours.....	80
Labor, repairing door bell.....	25
Labor, repairing furnace .....	42 25
Labor, repairing gas engine.....	5 35
Labor, repairing pump.....	2 50
Labor, repairing range .....	11 40
Labor, repairing radiators .....	2 75
Labor, plumbing, 27½ hours .....	11 00
Labor, painting radiators .....	50
Labor, papering rooms and halls.....	125 01
Labor, sizing walls .....	25
Labor, water heater .....	4 00
Topographical survey of Home grounds.....	33 00
Total .....	\$616 23

STATEMENT OF LIABILITIES EXISTING AT THE CLOSE OF BUSINESS ON THE 15TH DAY OF NOVEMBER, 1906, AND WHICH WERE APPROVED AND ORDERED PAID BY THE BOARD OF MANAGERS.

Voucher No.	Of Whom Purchased.	Articles.	Amount.
1	Gerling & Adlard.....	Groceries .....	\$66 64
2	J. S. Heartwell.....	Coal oil and gasoline.....	30 44
3	A. N. Benjamin.....	Forage and feed.....	7 00
4	Delos Bates .....	Hay .....	21 60
5	H. C. Gill.....	Sadlery goods .....	34 75
6	L. C. Phelps.....	Drugs .....	31 20
7	H. M. Rand.....	Groceries and meats.....	94 95
8	J. V. Winans, M. D.....	Medical services .....	181 25
9	Walton Weber .....	Supplies .....	12 33
10	George F. Robinson.....	Expense member of board..	16 55
11	J. Cory Winans.....	Expense member of board..	25 75
13	A. N. Benjamin.....	Brick and lumber.....	7 50
14	H. F. Wiker.....	Labor .....	5 25
15	H. A. Johnson.....	Labor cement work.....	4 00
		Total .....	\$894 54



## MAINTENANCE.

Voucher Number.	To Whom Paid.	Amount.
1	F. A. Cumings, Coal .....	\$143 28
2	H. M. Rand, groceries and meats.....	56 61
3	C. L. Kimball, laundry work and clothing.....	40 89
4	H. J. Tilden, blacksmithing.....	4 00
5	Gerling & Adlard, groceries.....	9 73
6	Kimball Bros., hardware, supplies and labor.....	64 30
7	D. L. Phelps, beef.....	14 94
8	A. H. Tracy, butter and vegetables.....	2 80
9	W. H. Genung & Son, labor repairing.....	22 00
10	Fred J. Heer, printing application blanks.....	14 00
11	J. V. Winans, M. D., medical services.....	36 25
12	W. H. Bliss, ice.....	7 72
13	J. S. Heartwell, gasoline and coal oil.....	32 01
14	D. L. Phelps, beef.....	5 10
15	Walton Weber, supplies paid for by self.....	30 17
16	J. Cory Winans, expense, member of board.....	13 35
17	Pay roll, officers and employes.....	318 33
18	C. L. Kimball, clothing and laundry work.....	41 26
19	A. N. Benjamin, forage and feed.....	53 54
20	The John Van Range Co., laundry stove.....	103 00
21	J. R. Kellogg, cement.....	6 00
22	J. S. Heartwell, gasoline and coal oil.....	51 17
23	A. H. Tracy, butter.....	5 80
24	The Burrows Bros. Co., type ribbon and paper.....	2 75
25	D. L. Phelps, dressed poultry.....	43 50
26	H. M. Rand, groceries and meats.....	116 70
27	W. A. Potter, corn.....	7 56
28	Charles Genung, butter.....	2 00
29	W. H. Bliss, ice.....	2 63
30	F. P. Cumings, surveying and platting grounds.....	33 00
31	Frank L. Packard, expenses as architect.....	12 77
32	W. H. Treat, buckwheat flour.....	2 50
33	Walton Weber, purchases from private funds.....	105 92
34	Walton Weber, expense account.....	12 60
35	George F. Robinson, expense account.....	23 50
36	Philip Bruck, expense account.....	21 88
37	Pay roll, officers and employes.....	333 33
38	H. M. Rand, groceries and meats.....	155 52
39	J. S. Heartwell, gasoline and coal oil.....	42 01
40	H. J. Tilden, blacksmithing.....	1 80
41	The Madison Mercantile Co., dry goods, etc.....	62 70
42	Gill & Phelps, meat.....	10 62
43	L. C. Phelps, drugs.....	33 85
44	The Madison Telephone Co., phone service.....	9 75
45	Gerling & Adlard, groceries.....	27 15
46	A. H. Tracy, butter .....	13 77
47	J. R. Kellogg, cement.....	2 30
48	C. L. Kimball, laundry work.....	39 34
49	Walton Weber, purchases from private funds.....	39 83
50	Walton Weber, expenses, board meeting.....	16 10
51	J. Cory Winans, expense, board meeting.....	22 35
52	A. C. Yengling, expenses, board meeting.....	7 50
53	Pay roll, officers and employes.....	336 33
54	The Madison Mercantile Co., dry goods.....	43 22
55	H. M. Rand, groceries and meats.....	67 86
56	J. S. Heartwell, gasoline and coal oil.....	35 76

## MAINTENANCE — Continued.

Voucher Number.	To Whom Paid.	Amount.
57	D. L. Phelps, meat.....	3 46.
58	C. L. Kimball, laundry work and clothing.....	35 19.
59	Kimbal Bros., hardware and plumbing.....	168 71
60	A. N. Benjamin, lumber and feed.....	42 01
61	A. H. Tracy, milk and butter.....	7 11
62	Walton Weber, purchases from private funds.....	15 97
63	Walton Weber, expenses, board meeting.....	27 10
64	George F. Robinson, expense board meeting.....	6 30.
65	J. Cory Winans, expenses, member of board.....	9 18
66	Pay roll, officers and employes.....	354 33
67	C. L. Kimball, clothing and Laundry work.....	36 68
68	A. N. Benjamin, forage and feed.....	25 32
69	F. A. Cumings, coal.....	87 36.
70	Bates' Music Co., beds, springs and mattresses.....	25 00
71	The Bailey Co., butter.....	5 40.
72	E. A. Coulter, livery and stable room.....	5 15.
73	J. S. Heartwell, gasoline and coal oil.....	55 15
74	The Madison Telephone Co., phone rental and services.....	13 15
75	Progressive Toilet Paper Co., toilet paper.....	8 75.
76	J. R. Kellogg, cement....	2 40
77	Gerling & Adlard, groceries.....	41 14
78	H. M. Rand, groceries and meats.....	106 60
79	D. L. Phelps, dressed poultry.....	6 16.
80	The Cleveland Laundry Machinery Co., laundry machinery....	744 63
81	The Cleveland Laundry Machinery Co., laundry machinery....	95 77
82	J. V. Winans, M. D., medical services and medicine.....	145 25
83	Gill & Phelps, meats.....	11 97
84	Frank Latham, hauling ice.....	5 50
85	Walton Weber, purchases from private funds.....	40 45.
86	Walton Weber, expenses, board meeting.....	14 80
87	J. Cory Winans, expenses, board meeting.....	16 10
88	George F. Robinson, expenses, board meeting.....	5 60
89	Pay roll, officers and employes.....	354 33
90	H. M. Rand, groceries and meats.....	107 67
91	The Hall-Moore Co., laundry soap.....	2 63
92	D. L. Phelps, meat.....	2 30
93	The Livingston Seed Co., seeds.....	2 75
94	The Smith Bros. Hdwe. Co., hardware and tinware.....	135 11
95	J. M. & W. Westwater, queensware and glassware.....	77 26.
96	The Toledo Metal Fixture Co., springs and mattresses.....	127 70
97	John Immel & Sons, baggage and express wagon.....	171 00
98	The David C. Beggs Co., carpets and curtains.....	1,145 07
99	The Green-Joyce Co., dry goods.....	189 84
100	The Columbus Buggy Co., carriage.....	360 00
101	The Dahl-Millican Co., groceries and canned goods.....	1,316 13
102	C. W. Genung, bull dozer pump.....	90 00.
103	Kimball Bros., hardware, paints and oils.....	237 41
104	William Spencer, lumber.....	33 58.
105	F. A. Cumings, coal.....	71 49.
106	C. W. Genung, seed drill and rep. machinery.....	14 50.
107	Bates' Music Co., furniture and burial caskets.....	89 50
108	L. C. Phelps, drugs.....	43 75.
109	C. L. Kimball, clothing and maple syrup.....	37 00.
110	H. C. Gill, harness and horse blankets.....	53 95
111	Madison Mercantile Co., dry goods and oil cloth.....	25 28.
112	A. N. Benjamin feed and lumber.....	31 84
113	J. R. Kellogg, plows, sprayer, rope and blocks.....	27 85.



## MAINTENANCE — Continued.

Voucher Number.	To Whom Paid.	Amount.
114	N. B. Wood, labor hauling coal.....	46 50
115	J. S. Hearthwell, gasoline and coal oil.....	31 68
116	Walton Weber, purchases from private funds.....	149 32
117	J. T. Collister, milk and labor, papering rooms.....	14 18
118	The Dahl-Millican Co., groceries and coffee mill.....	57 80
119	Walton Weber, expenses board meeting.....	11 50
120	J. Cory Winans, expenses, board meeting.....	22 65
121	P. H. Bruck, expenses, board meeting.....	14 35
122	George F. Robinson, expenses, board meeting.....	4 80
123	Pay roll, officers and employes.....	354 33
124	Lehigh Valley Coal Co., anthracite coal.....	710 30
125	The Crystal Ice Mnfg Co., ice.....	103 00
126	J. S. Heartwell, gasoline and coal oil.....	42 08
127	Gerling and Adlard, groceries.....	28 94
128	J. T. Collister, milk.....	10 24
129	H. J. Tilden, blacksmithing.....	5 10
130	F. R. Latham, digging graves and hauling ice.....	7 70
131	Gill & Phelps, meat and eggs.....	22 91
132	A. N. Benjamin, feed and forage.....	16 10
133	E. J. Moss, fresh fish.....	15 33
134	The Bannerman Chemical Co., disinfectant.....	6 50
135	H. M. Rand, groceries and meats.....	82 81
136	N. B. Wood, hauling coal.....	11 92
137	Walton Weber, purchases from private funds.....	89 19
138	Walton Weber, traveling expenses.....	24 20
139	J. Cory Winans, expenses, board meeting.....	17 10
140	George F. Robinson, expenses, board meeting.....	3 10
141	A. C. Yengling, expenses, board meeting.....	15 25
142	P. H. Bruck, expenses, board meeting.....	12 10
143	Pay roll, officers and employes.....	354 33
144	Bates' Music Co., burial caskets and robes.....	66 00
145	The Madison Mercantile Co., dry goods, etc.....	35 88
146	W. L. Colby, service of boar and boarding sow.....	2 75
147	Gill & Phelps, meats and eggs.....	9 92
148	A. N. Benjamin, forage and feed.....	15 95
149	The Madison Telephone Co., toll and messenger service.....	10 05
150	Void.....	.....
151	The Smith Bros. Hdwe Co., mower.....	50 00
152	The David C. Beggs Co., laundrying curtains.....	3 75
153	J. R. Kellogg, plaster and fertilizer.....	8 40
154	E. J. Moss, fresh fish.....	14 67
155	F. A. Cumings, hay.....	12 44
156	Walton Weber, purchases from private funds.....	24 15
157	George F. Robinson, expenses, board meeting.....	14 40
158	Pay roll, officers and employes.....	354 33
163	L. C. Phelps, drugs.....	48 80
164	The Madison Telephone Co., phone rentals and tolls.....	21 55
165	A. N. Benjamin, forage and feed.....	17 15
166	The Smith Bros. Hdwe Co., wire cloth and lap robes.....	6 53
167	E. A. Coulter, livery and stable room.....	4 90
168	Gerling & Adlard, groceries.....	33 23
169	D. C. Warner, blacksmithing.....	2 40
170	Bates Music Co., burial casket.....	25 00
171	H. M. Rand, groceries and meats.....	140 15
172	J. S. Heartwell, gasoline and coal oil.....	49 86
173	Walton Weber, purchases from private funds.....	40 31
174	Walton Weber, expenses, board meeting.....	12 35



## MAINTENANCE—Concluded.

Voucher Number.	To Whom Paid.	Amount.
175	J. Cory Winans, expenses, board meeting.....	32 00
176	P. H. Bruck, expenses, board meeting.....	12 35
177	Pay roll, officers and employes.....	354 33
181	H. M. Rand, groceries and meats.....	75 22
182	A. N. Benjamin, feed and forage.....	25 88
183	J. S. Heartwell, gasoline and coal oil.....	25 89
184	Isham & Church, millinery goods.....	8 25
185	D. L. Phelps, meats.....	17 65
186	W. M. Spencer, hay.....	27 75
187	Walton Weber, purchases from private funds.....	14 08
188	P. H. Bruck, expenses, board meeting.....	13 20
189	Pay roll, officers and employes.....	346 68
191	Gerling & Adlard, groceries.....	102 52
192	H. M. Rand, groceries and meats.....	77 05
193	Kimball Bros., hardware.....	8 85
194	Will Balch, vegetables.....	6 00
195	Walton Weber, purchases from private funds.....	7 93
196	Walton Weber, expenses, board meeting.....	11 25
197	P. H. Bruck, expenses, board meeting.....	13 55
198	George F. Robinson, expenses, board meeting.....	18 00
199	Pay roll, officers and employes.....	349 53
202	The Madison Mercantile Co., dry goods and notions.....	28 76
203	J. S. Heartwell, gasoline and coal oil.....	53 26
204	A. N. Benjamin, forage and feed.....	26 90
205	H. J. Tilden, blacksmithing.....	5 45
206	Gill & Phelps, meat and eggs.....	18 28
207	Walton Weber, purchases from private funds.....	37 90
208	Walton Weber, expenses, board meeting.....	12 30
209	A. C. Yengling, expenses, board meeting.....	15 80
210	Pay Roll, Officers and employes.....	346 33
	Total .....	\$15,083 55

## REPAIRS AND IMPROVEMENTS.

Voucher Number.	To Whom Paid.	Amount.
159	H. A. Johnson, labor, cement work.....	\$3 00
160	W. A. Potter, labor, carpenter work.....	22 40
161	Madison Mercantile Co., wall paper and border.....	67 16
162	M. E. Heffleman, labor, papering rooms and halls.....	100 76
178	Frank L. Packard, preparing plans for buildings.....	285 00
179	W. A. Potter, labor, carpenter work.....	7 60
180	G. W. Colgrove, lettering and repairing wagon.....	17 45
190	W. M. Spencer, lumber.....	2 72
200	Kimball Bros., paints, varnish, wire cloth, nails.....	56 48
201	W. A. Potter, labor, carpenter work.....	27 90
	Total .....	\$590 47

## REPORT OF PHYSICIAN.

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TO WALTON WEBER, *Superintendent*:

SIR:—Your physician submits the following report for the year ending November 15, 1906:

Your inmates are to be congratulated for the interest taken in their behalf by those in authority in procuring proper heating, good clothing and excellent food.

Every need of the sick has been carefully considered, competent nursing provided and necessary diet procured.

The general health of your inmates during the past year has been above the average. Malignancy excepted, no contagious or infectious disease, has prevailed.

I would cite the following case to show one of the needs at the Home:

MARY FOSTENBERG, aged 62, crippled and asthmatic, with right oblique inguinal hernia. The hernia becoming strangulated and irreducible, with high pulse and temperature, an immediate operation was necessary, which was performed about 10:00 on the evening of December 29, in the corridor of the Wittenmeyer Cottage.

I was ably assisted by Dr. D. G. Palmer, of Geneva, O., and Mesdames Weber, Winans and Wiker. Mrs. Fostenberg, made a rapid and complete recovery.

The lack of facilities for giving such cases proper relief, adds much to the labor of operators and risk of infection to patients.

This case well demonstrates the necessity of maintaining a room properly equipped for operations and emergency work.

Your institution has, at present, and has had for many years, those who should be segregated. That the comfort and health of inmates and attendants may not be jeopardized, I suggest that those suffering from fistula, tuberculosis, malignancy, and unpleasant odors caused by incontinence, be placed in wards, especially provided.

That this institution has been free from typhoid fever is certainly wonderful when the lack of proper disposal of the garbage and sewage be taken into consideration. I believe, that immediate steps should be taken to remedy the present inadequate and defective system.

## DEATHS DURING 1906.

Name.	Age.	Died.	Disease.
Hannah Shidler .....	79	March 22....	Senile dementia.
Harriet M. Gildersleeve.....	73	April 24....	Gastritis.
Maria Montgomery .....	76	May 28.....	Malignant uterus.
Mary E. Truesdale.....	81	June 12.....	Old age.
Premelea Bedortha .....	81	June 14.....	Fractured femur.
Helen M. Caterton.....	66	July 5.....	Mitral heart disease.

I take this opportunity to extend to the Board of Managers, and to the Superintendent, my appreciation of the latitude given me in the discharge of my duties as physician. Also to the nurses, for the fidelity with which they discharged their duties to those who were sick.

Respectfully submitted,

J. V. WINANS, M. D.







ANNUAL REPORT

OF THE

Supervisor of Public Printing

TO THE

Governor of the State of Ohio

FOR THE

Fiscal Year Ending Nov. 15, 1906.





## ANNUAL REPORT.

*To His Excellency, ANDREW L. HARRIS, Governor of Ohio:*

SIR:—I have the honor of submitting herewith, as the law provides, this the usual annual report of the Department of State Printing and Binding, for the fiscal year which closed with November 15, 1906.

In submitting this Report which covers a little more than five months under the direction of the present Supervisor, I deem it expedient and to be my duty to call your attention to conditions that have prevailed in this Department, resulting in a loss to the state that easily runs into the thousands of dollars; administrative methods, to be in harmony with modern, economic business conduct of affairs, the best interests of the tax-payers and in consonance with the official oath of a public servant, require radical change.

### GENERAL STATEMENT.

The cost of Public Printing, includes cuts, maps, advertising and electrotyping, during the year, was \$44,206.80.

(For itemized accounts, see Auditor of State's Report.)

The cost of Binding during the year was \$36,199.92, against a cost last year of \$44,173.87; a saving over last year of approximately eight thousand dollars, due chiefly to the competitive system of buying in vogue for the final five months of the year.

The contingent expenses for the year were \$375.95.

The following is a statement of the incidental accounts of the Bindery from November 15, 1905, to November 15, 1906:

November 15, 1905, balance on hand.....	\$85 60
Receipts for gold sweepings, shavings, etc.....	534 40
	<hr/>
Total receipts .....	\$620 00
Disbursements .....	334 46
	<hr/>
Balance on hand.....	\$285 54

I ought to say in the outset, perhaps, that the growing needs of the state in relation to printing and binding appear to call for enlarged facilities, especially in the matter of binding. The present building, housing the state Bindery, is old enough to tumble down, almost, and entirely inadequate as to space and room actually required in doing the best work and doing it promptly. There is urgent need of more room in a structure erected with an eye single to all requirements and adapt-

abilities. The heating plant is almost worn out and must soon be replaced at considerable cost, and certainly no modern system of heating should be installed in a structure as thoroughly antiquated as the present State Bindery.

There is a lack, too, of facilities in folding machinery, for instance. All the years since the establishment of the Bindery, the folding has been done by hand. This, now, is necessarily a slow process and the times and needs demand machines for this work. It might be argued that to put in labor-saving machinery of this kind would be an injustice to the mutes whom the institution was originally intended to benefit. Over against this, it may be set out that the mute boys and girls no longer have any apprentice relation to the Bindery, and therefore are not benefited as was originally intended. Besides, the state Bindery, if it ever was, is no longer a charity institution in any sense, although still giving preference, in certain lines, to employment of mutes. It has become and is an important business institution of the state and to be operated on business principles.

It is due me to say, however, that under all the disadvantages that might be mentioned, the foreman and force, under the present Supervisor, at least, deserve much credit for the quality of the work turned out, as well as for the promptness with which it is turned out. One especial duty has been added to those of the foreman that I consider of the very greatest importance to the state; THAT OF CHECKING INTO THE BINDERY BY DUPLICATE BILL, EVERY DOLLAR'S WORTH OF SUPPLIES PURCHASED BY THE SUPERVISOR. This has not been the custom and in my estimation, all discoveries fairly and honestly considered, has been a serious oversight.

I think I ought to commend the Printing Commission in their new departure of refusing to permit contracting printers to load up too heavily with the state work. It is no injustice to the printer to refuse to award to him more than he can do well in the time allotted; and it is a decided advantage to the state and the Bindery to have all printing done within the required limit. Only in this way can reports and documents be completed without delay and in reasonable time.

Perhaps there is no department of the public service where there is presented a greater opportunity for waste and extravagance, not to mention "graft," than is offered in the management of the State Bindery. The absolute honesty and integrity of the Supervisor is the only safeguard against loss from not only careless purchasing of supplies, but from the temptation to profit, in a score of ways, at the expense of the public funds set apart by the legislature for the maintenance of this department.

To illustrate. Until within the last few months the competitive system, urged strongly upon all purchasing institutions of the state by both yourself and Governor Pattison, has never been in vogue in procur-



ing utilities essential at the State Bindery. To convince the tax-payers of the loss that has been sustained because supplies have not been bought of the lowest responsible bidder, it is only necessary to institute a few comparisons.

Considerable gold leaf is used at the Bindery to title books and the various reports that are bound, annually. An investigation discloses that, on an average, some 300 packs are needed, yearly, for this purpose. Three bills on file in the Supervisor's office, one from a Dayton printer, dated February 20, 1905, made out for 100 packs at \$9.65 per pack; one from a Chicago dealer, dated May 20, 1905, for 200 packs at \$9.65 per pack; and another from Dayton for 200 packs at \$9.65 per pack and dated December 7, 1905, total amount purchased in nine months, 500 packs at a total cost of \$4,825.00, are fairly indicative of extravagance *without* comparison. But when it is set out over-against this procedure that the same quality of gold has been purchased by the largest private bindery in Columbus for ten or a dozen years past at from \$6.40 to \$7.00 per pack; and moreover, that the present Supervisor, under competition, is offered the same gold in brand and quality by responsible dealers as low as \$7.25 per pack; and finally when it is kept in mind that not to exceed 300 packs, all told, on an average, is actually required each entire year in the work of the Bindery, the leakage and loss to the state and tax-payers becomes painfully apparent.

In this connection and while upon the subject of gold leaf, one of the very costly necessities at the Bindery, I would like to suggest, kindly, to a few of the state departments, that a good many hundreds of dollars in the course of time, could be saved the state by a little abbreviation of book "titles." Several words might sometimes be eliminated from copy furnished the binder and the book still have title enough to very properly designate it. There is no good reason why the same economy that would be practiced in private matters should not also be practiced in public affairs.

Other bills on file show that as much as \$64.00 per ton has been paid for cloth and straw-lined board. Bids now on the same quality of goods range from \$32 to \$38 per ton.

Law Lamb and Sheep cost formerly \$12.50 per dozen. Prime goods are now offered at \$9.00 per dozen.

Buffing that used to cost, according to the bills, 12 to 13 cents per foot, is now bid on at 9 cents per foot.

Stitching wire used to cost 20 cents per pound. It is bid on today, the same goods, at 10 cents per pound.

Black binding cloth, a great deal of which is used in binding the usual annual reports of the various departments, cost formerly, as much as \$7.00 per roll (23 yards). Now it is offered by several firms, on bids, at \$4.75 per roll (38 yards).

Thread has been costing the department, \$1.10 to \$1.95 per dozen

spools. It is offered today, under competitive buying, best goods for the purpose made, at 90 cents per dozen.

Lining paper for books used to cost the state as much as \$14.00 per ream. It is now being bought, identically the same goods in quality and figure, at \$7.00 per ream.

And so the comparison might go on through almost the entire list, favorable, in every instance, to the competitive system of purchasing all necessary supplies.

But still closer investigation discloses other sources of leakage. Not only have goods been purchased at too high a figure, but it has not been the custom to check these goods, by bill, into the Bindery. A private business man invariably checks his goods into his house and is thus enabled to determine whether there is a "shortage" or not. In the absence of this checking system by the foreman at the Bindery, it can be readily seen that the State could be paying for goods that it had not received. This checking system has now been adopted and the foreman directed to open and shelve goods only when he has the bill to check by.

Another source of loss to the state has been the purchasing of more supplies than needed. It is shown that this has been done to the extent of being compelled to rent outside warehouse room, where little or no surveillance could be maintained on the property. Many of these goods have been on hands for several years and have been allowed to lie and mold and spoil and damage while the purchasing of other goods, at high prices, has gone on without any attempt to clean up the stock on hands. Within the last few months, considerable of this old and accumulated stock has been utilized and the remainder of it will be so far as it can be, considering the damage it has sustained from dust, dampness and other sources of injury.

Only a few years ago, a single sewing machine was purchased at a first cost of \$1,600.00, operated for a year or two and then a new set of arms added at an additional cost of \$225.00. Four different kinds of sewing machines were then purchased to take the place of the eighteen hundred and twenty-five dollar one, that has since stood, dust and dirt-covered, majestically idle and in the perfect composure of a retired public servant, worth not one penny of service, in four or five years, to the state; an absolute detriment, because it is in the way.

Still another source of leakage may be cited in the disposal of the "shavings" that accumulate at the Bindery. When the present Supervisor succeeded to office, he discovered the department tied up in a contract that sold white shavings at 80 cents per hundred; mixed shavings at 30 cents; and books and bundles at 30 cents. Because of this contract he was unable to accept a standing bid of \$1.40 for white shavings, 50 cents for mixed and 50 cents for books and bundles, prices almost double the contract price. That contract now, however, has expired and these goods will be sold to the highest responsible bidder. And when it



is taken into consideration, that many tons of these shavings are disposed of each year, the loss is no inconsiderable amount.

And so these citations might be multiplied indefinitely. Enough has been disclosed, however, to convince the present management as it ought to convince the public, that several thousands of dollars can be and ought to be saved to the state, annually, in this one department alone. Instead of the cost for supplies for the state Bindery averaging something like \$1,800.00 annually as heretofore, the present Supervisor confidently believes that the close of the next fiscal year will show a saving to the state of probably 4 to \$6000. And that notwithstanding the state work is augmenting each year. At the same time, the competitive system which will be largely responsible for the saving effected, will remove all opportunity for suspicion of favoritism toward any of those who furnish supplies, in any quantity, for the State.

Respectfully submitted,

J. W. JOHNSON,

*Supervisor of Public Printing.*



PRINTING CONTRACTS.

The Commissioners of Public Printing have awarded the contracts for printing for a period of two years from and after the first Monday of November, 1906, to the following parties and at the prices designated:

FIRST CONTRACT — F. J. Heer, Columbus.		
Composition, per 1000 ems.....		21c.
Press Work, per token.....		16c.
SECOND CONTRACT — L. Hirsch, Columbus.		
Composition, per 1000 ems.....		17c.
Press Work, per token.....		48c.
THIRD CONTRACT — F. J. Heer, Columbus.		
Composition, per 1000 ems.....		23c.
Press Work, per token.....		21c.
FOURTH CONTRACT — The Springfield Publishing Co., Springfield.		
Composition, per 1000 ems.....		20c.
Press Work, per token.....		12c.
FIFTH CONTRACT — The J. L. Trauger Printing Co., Columbus.		
Composition, per 1000 ems.....		04c.
Press Work, per quire.....		04½c.
SIXTH CONTRACT — The Springfield Publishing Co., Springfield.		
Composition, per 1000 ems.....		18c.
Press Work, per token.....		20c.
SEVENTH CONTRACT — The Springfield Publishing Co., Springfield.		
Composition, per 1000 ems.....		18c.
Press Work, per token.....		20c.

CONTRACTS DEFINED.

FIRST CONTRACT-BILLS. — Resolutions, etc., of the General Assembly.

SECOND CONTRACT. — Journals of the Senate and the House of Representatives.

THIRD CONTRACT.—All Reports, Communications, etc., printed in pamphlet form, except bulletins of the Ohio Agricultural Experiment Station.

FOURTH CONTRACT. — General and local laws and joint resolutions.

FIFTH CONTRACT. — All Blanks, Circulars, etc., for the executive departments, other than pamphlets.

SIXTH CONTRACT. — Reports of the Secretary of State, Inspector of Building and Loan Associations and Commissioner of Labor Statistics.

SEVENTH CONTRACT. — Reports of the Auditor of State, Commissioner of Common Schools, Superintendent of Insurance (Life and Fire) and State Board of Agriculture.

## PRINTING PAPER.

The contracts for printing paper for the State for the year 1906-7 have been awarded as follows:

THE CENTRAL OHIO PAPER Co., Columbus: 3,000 reams double Super Royal white book paper, 75 pounds to the ream, per pound, \$3.30; 100 reams, Linen Folio Paper, 24 pounds to the ream, (at) per pound, 14 cents; 40 reams, Linen Double Folio Paper, 48 pounds to the ream, per pound, 14 cents; 20 reams, India Jute, 24 x 36 inches, 200 pounds to the ream, per pound, 5.75; 20 reams, No. 1 xx Manila Paper, 30x40 inches, 60 pounds to the ream, per pound, 4.50; 3,000 sheets, 6-Ply White Bristol Board, 22 1/2 x 28 1/2 inches, 160 pounds to the ream, per hundred sheets, \$2.56; 40 reams Double Medium Ledger Paper, 72 pounds to the ream, per pound, 11 cents.

THE CHATFIELD & WOODS Co., Cincinnati: 75 reams, Rag Book Paper, 34 x 46 inches, 120 pounds to the ream, per pound, 4 cents; 100 reams, Folio Bond Paper, 24 pounds to the ream, per pound, 10 cents; 200 reams, Double Cap Bond Paper, 32 pounds to the ream, per pound, 10 cents; 60 reams, Medium Line Ledger Paper, 40 pounds to the ream, per pound, 21.50; 60 reams, Super Royal Ledger Paper, 54 pounds to the ream, per pound, 22.25.

THE WHITAKER PAPER Co., Cincinnati: 100 reams, Cover Paper, 21 x 28 inches, 80 pounds to the ream, per pound, 4.25; 20 reams, Red Express Paper, 40 x 48 inches, 200 pounds to the ream, per pound, 3.75; 60 reams, Demy Linen Ledger Paper, 28 pounds to the ream, per pound, 19.25.

THE DIEM & WING PAPER Co., Cincinnati: 20 reams, Fibre Paper, 40 x 48 inches, 150 pounds to the ream, per pound, .05 3/8.

## STATEMENT.

The cost of printing annual reports, advance sheets and pamphlets of the different departments and institutions of the State, for the fiscal year ending November 15, 1905.

Name of Document.	No. of Copies.	Cost of Printing.
<i>Adjutant General —</i>		
Annual Report for 1905.....	900	\$299 37
Pamphlets .....	4,150	460 18
<i>Auditor of State —</i>		
Annual Report for 1905.....	2,380	1,128 62
Tax Laws, etc., for 1906.....	4,700	253 55
<i>Attorney General —</i>		
Annual Report for 1905.....	1,250	132 77
Briefs, etc. ....	320	35 68
Opinions Attorney General, V. 1, 2, 3.....	300	1,649 50
<i>Athens State Hospital —</i>		
Annual Report for 1905.....	750	77 00
<i>Board of Public Works —</i>		
Annual Report for 1905.....	450	259 03
<i>Board of State Charities —</i>		
Annual Report for 1905.....	1,250	491 27
<i>Bureau of Building and Loan —</i>		
Annual Report for 1905.....	1,800	1,437 62
<i>Bureau of Labor Statistics —</i>		
Annual Report for 1905.....	6,750	1,294 79
<i>Canal Commission —</i>		
Annual Report for 1905.....	1,000	64 73
<i>Clerk of Supreme Court —</i>		
Calendar of General Docket for 1906.....	750	30 94
<i>Cleveland State Hospital —</i>		
Annual Report for 1905.....	750	91 22
<i>Columbus State Hospital —</i>		
Annual Report for 1905.....	750	121 30
<i>Commissioner of Railroads and Telegraphs —</i>		
Annual Report for 1905.....	2,000	\$887 92
<i>Commissioner of Soldier's Claim —</i>		
Annual Report for 1905.....	750	39 35
<i>Dayton State Hospital —</i>		
Annual Report for 1904.....	750	63 37
<i>Bills and Calendars —</i>		
Senate and House Calendars and Bills.....	480	2,734 53



## STATEMENT — Continued.

Name of Document.	No. of Copies.	Cost of Printing.
<i>Dairy and Food Commissioner —</i> Annual Report for 1905.....	3,000	69 05
<i>Executive Department —</i> Message .....	2,175	31 33
Inaugural Address .....	2,012	20 14
Executive Documents, Vols. 1 and 2, 1905.....	600	217 28
<i>Fish and Game —</i> Annual Report for 1905.....	750	17 32
<i>Girls' Industrial Home —</i> Annual Report for 1905.....	750	63 99
<i>Highway Department —</i> Bulletins for 1906.....	14,000	1,165 46
Annual Report for 1905.....	750	25 46
<i>Home Ohio Soldiers and Marines —</i> Annual Report for 1905.....	750	31 46
<i>Inspector of Oils —</i> Annual Report for 1905.....	550	13 88
<i>Inspector of Workshops and Factories —</i> Annual Report for 1905.....	4,050	559 97
<i>Insurance Department —</i> Annual Report (Fire) for 1905.....	3,000	1,570 15
Annual Report (Life )for 1905.....	3,000	937 22
Annual Report (Fraternal) for 1905.....	1,000	289 20
Pamphlets, etc. ....	2,500	343 90
<i>Legislative Work —</i> Manual Legislative Practice.....	2,000	\$131 18
Poster, Rules and Pamphlets.....	9,500	76 31
<i>Ohio Hospital for Epileptics —</i> Annual Report for 1905.....	750	64 68
<i>Ohio Institute for Blind —</i> Annual Report for 1905.....	750	141 86
<i>Ohio Institute for Deaf and Dumb —</i> Annual Report for 1905.....	750	95 61
<i>Ohio Agricultural Experiment Station —</i> Crop Bulletin .....	15,000	321 85
<i>Miami University —</i> Annual Report for 1905.....	750	9 38
<i>Ohio Live Stock Commission —</i> Annual Report for 1905.....	5,000	58 52
<i>Ohio Penitentiary —</i> Annual Report for 1905.....	750	90 83

## STATEMENT — Concluded.

Name of Document.	No. of Copies.	Cost of Printing.
<i>Ohio State Reformatory</i> — Annual Report for 1905.....	750	99 55
<i>Secretary of State</i> — Annual Report for 1905..... Election Statistics for 1905..... Pamphlets, etc. ....	4,200 3,000 3,000	1,738 01 115 00 538 95
<i>State Board of Agriculture</i> — Annual Report for 1905..... Bulletins, Pamphlets, etc.....	4,200 102,500	843 24 2,072 07
<i>State Board of Arbitration</i> — Annual Report for 1905.....	750	40 88
<i>State Board of Health</i> — Annual Report for 1904..... Annual Report for 1905.....	3,000 3,000	858 12 515 60
<i>State Fire Marshal</i> — Annual Report for 1905.....	3,200	89 79
<i>State Geologist</i> — Bulletin No. IV..... Bulletin No. VIII..... Bulletin No. VI.....	4,000 3,500 3,500	\$657 11 66 72 488 41
<i>State School Commissioner</i> — Report for 1905..... Pamphlets .....	15,920 18,500	1,001 32 256 51
<i>Supervisor of Public Printing</i> — Annual Report for 1904.....	350	41 11
<i>Toledo State Hospital</i> — Annual Report for 1905.....	750	82 09
<i>Treasurer of State</i> — Annual Report for 1905.....	750	42 52

# PAPER ACCOUNT.

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The Various Kinds of Paper Received Under Contract, and  
the Disbursements Made Under Requisition of  
the Supervisor of Public Printing.

(677)



PAPER ACCOUNT.  
THE VARIOUS KINDS OF PAPER RECEIVED UNDER CONTRACT,  
SUPERVISOR OF

	Double Super Royal Book and Plate.		
	Reams.	Sheets.	Cost.
<i>Of Whom Ordered.</i>			
On hand November 15, 1905.....	1,617	122	\$3,536 40
The Chatfield & Woods Co.....	86	450	775 74
The Central Ohio Paper Co.....	265	385	1,133 30
Browne & Stuart.....	3,141	.....	7,949 64
The Springfield Publishing Co.....	1	.....	7 50
The Columbus Lithograph Co.....	.....	.....	.....
The Ruggles-Gale Co.....	.....	.....	.....
The Webb Stationery and Printing Co.....	.....	.....	.....
The Keogh & Rike Paper Co.....	.....	.....	.....
The Whitaker Paper Co.....	.....	.....	.....
The Columbus Envelope Co.....	.....	.....	.....
E. H. Sell & Co.....	.....	.....	.....
Springfield Bindery .....	.....	.....	.....
Beck & Orr.....	.....	.....	.....
Totals .....	5,111	457	\$13,402 58
<i>To Whom Issued.</i>			
Executive Department .....	.....	.....	.....
Department of State.....	.....	45	23
Auditor of State.....	2	395	10 13
Treasurer of State.....	.....	.....	.....
Attorney General .....	.....	65	34
Supreme Court and Law Library.....	.....	175	95
Clerk of Supreme Court.....	.....	270	1 41
Inspector of Workshops and Factories.....	.....	195	1 02
Fire Marshal .....	.....	.....	.....
State School Commissioner.....	37	90	107 62
Board of Public Works.....	.....	.....	.....
Senate .....	.....	35	43
House of Representatives.....	.....	.....	.....
Adjutant General .....	.....	390	2 64
Insurance Commissioner .....	3	150	8 87
Bureau of Labor Statistics.....	.....	255	1 17
Mine Inspector .....	.....	.....	.....
Board of Pardons.....	.....	.....	.....
State Library .....	.....	50	26
Canal Commission .....	.....	.....	.....
Railroad Commission .....	.....	.....	.....
Supervisor of Public Printing.....	.....	.....	.....
State Board of Health.....	2	250	6 51
State Board of Charities.....	.....	.....	.....
State Board of Appraisers and Assessors.....	.....	.....	.....
Reporter of Supreme Court.....	.....	.....	.....
State Bindery .....	94	250	303 42



PAPER ACCOUNT — Continued.

	Double Super Royal Book and Plate.		
	Reams.	Sheets.	Cost.
<i>To Whom Issued — Concluded.</i>			
Clerk of Senate.....			
Clerk of House of Representatives.....			
Agricultural Department .....			
Dairy and Food Commissioner.....			
Building and Loan Department.....			
Examiner of Stationary Engineers.....			
Commissioner of Soldiers' Claims.....			
State Board of Arbitration.....			
Ohio Soldiers' and Sailors' Orphans' Home.....	12		32 30
F. J. Heer.....	1,940	281	5,056 50
The Springfield Publishing Co.....	185	150	698 62
Ohio State Agricultural Experiment Station.....	1,509		3,702 32
Highway Department .....			
Fish and Game Commission.....			
*Settled by cash payment.....	1,142	366	2,974 00
On hand November 15, 1906.....	179	45	493 84
Totals .....	5,111	457	\$13,402 58

\* Paid into State Treasury by contracting printer for paper not returned.





## PAPER ACCOUNT — Continued.

	Manila and Wrapping.		
	Reams.	Sheets.	Cost.
<i>Of Whom Ordered.</i>			
On hand November 15, 1905.....	57	305	\$431 66
The Chatfield & Woods Co.....	87	320	604 44
The Central Ohio Paper Co.....			
Browne & Stuart.....			
The Springfield Publishing Co.....			
The Columbus Lithograph Co.....			
The Ruggles-Gale Co.....			
The Webb Stationery and Printing Co.....			
The Keogh & Rike Paper Co.....			
The Whitaker Paper Co.....			
The Columbus Envelope Co.....			
E. H. Sell & Co.....			
Springfield Bindery .....			
Beck & Orr.....			
Totals .....	145	145	\$1,036 10
<i>To Whom Issued.</i>			
Executive Department .....		50	30
Department of State.....	3	41	8 49
Auditor of State.....	12	150	103 90
Treasurer of State.....	3		4 73
Attorney General .....		48	38
Supreme Court and Law Library.....		324	3 16
Clerk of Supreme Court.....	1		5 85
Inspector of Workshops and Factories.....	1	50	5 34
Fire Marshal .....		100	1 52
State School Commissioner.....	1	162	9 37
Board of Public Works.....	1	168	6 61
Senate .....		200	3 03
House of Representatives.....	6	96	39 71
Adjutant General .....	16	195	236 04
Insurance Commissioner .....	1	398	12 00
Bureau of Labor Statistics.....		72	1 31
Mine Inspector .....	2	170	9 97
Board of Pardons.....			
State Library .....	19		63 02
Caral Commission .....		96	1 17
Railroad Commission .....		96	1 46
Supervisor of Public Printing.....		100	93
State Board of Health.....	5	400	18 36
State Board of Charities.....		350	2 65
State Board of Appraisers and Assessors.....			
Reporter of Supreme Court.....			
State Bindery .....	15		148 14
Clerk of Senate.....			
Clerk of House of Representatives.....			
Agricultural Department .....	3	345	28 80
Dairy and Food Commissioner.....		360	3 62





PAPER ACCOUNT — Continued.

	Manila and Wrapping.		
	Reams.	Sheets.	Cost.
<i>To Whom Issued — Concluded.</i>			
Building and Loan Department.....			
Examiner of Stationary Engineers.....		96	1 76
Commissioner of Soldiers' Claims.....		98	91
State Board of Arbitration.....		100	1 23
Ohio Soldiers' and Sailors' Orphans' Home.....			
F. I. Heer.....			
The Springfield Publishing Co.....			
Ohio State Agricultural Experiment Station.....			
Highway Department .....	1		5 87
Fish and Game Commission.....			
On hand November 15, 1906.....	46	200	306 47
Totals .....	145	145	\$1,036 10

PAPER ACCOUNT — Continued.

India Jute.			Gummed.			Cover.		
Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.
.....	.....	.....	.....	.....	.....	3	10	12 08
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	1	.....	4 00
.....	.....	.....	.....	.....	.....	87	371	394 98
.....	.....	.....	.....	.....	.....	49	488	193 02
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
20	.....	230 00	.....	.....	.....	98	400	421 78
20	.....	\$230 00	.....	411	\$3 51	249	27	\$1,062 53

PAPER ACCOUNT — Continued.

	Cardboard.		
	Reams.	Sheets.	Cost.
<i>Of Whom Ordered.</i>			
On hand November 15, 1905.....	1	600	48 00
The Chatfield & Woods Co.....			
The Central Ohio Paper Co.....	8	631	248 33
Browne & Stuart.....			
The Springfield Publishing Co.....			
The Columbus Lithograph Co.....			
The Ruggles-Gale Co.....			
The Webb Stationery and Printing Co.....			
The Keogh & Rike Paper Co.....			
The Whitaker Paper Co.....			
The Columbus Envelope Co.....			
E. H. Sell & Co.....			
Springfield Bindery .....			
Beck & Orr.....			
Totals .....	10	231	\$296 33
<i>To Whom Issued.</i>			
Executive Department .....			
Department of State.....	1	466	40 61
Auditor of State.....		10	30
Treasurer of State.....		5	15
Attorney General .....		3	09
Supreme Court and Law Library.....		59	1 77
Clerk of Supreme Court.....		55	1 65
Inspector of Workshops and Factories.....	3	385	95 16
Fire Marshal .....			
State School Commissioner.....		12	38
Board of Public Works.....		30	90
Senate .....		5	15
House of Representatives.....			
Adjutant General .....	1	395	40 74
Insurance Commissioner .....			
Bureau of Labor Statistics.....		235	7 05
Mine Inspector .....		110	3 30
Board of Pardons.....			
State Library .....		427	12 53
Canal Commission .....			
Railroad Commission .....		250	5 86
Supervisor of Public Printing.....			
State Board of Health.....			
State Board of Charities.....		190	5 70
State Board of Appraisers and Assessors.....			
Reporter of Supreme Court.....			
State Bindery .....			
Clerk of Senate.....			
Clerk of House of Representatives.....		91	2 83
Agricultural Department .....		736	24 15
Dairy and Food Commissioner.....			



PAPER ACCOUNT — Continued.

Onion Skin.			Folio Post.			Linen Folio.		
Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.
8	183	\$25 60	45	150	\$72 45	880	376	\$3,672 83
52	455	171 20	118	.....	254 88	20	.....	300 00
.....	.....	.....	.....	.....	.....	38	415	109 42
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	6	.....	12 00
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
61	138	\$196 80	163	.....	\$327 33	945	291	\$4,094 25
.....	.....	.....	.....	.....	.....	.....	.....	.....
4	250	13 39	.....	130	56	31	285	137 47
2	183	4 86	4	85	8 19	31	31	304 07
2	375	8 90	5	60	9 97	30	463	145 81
.....	375	2 38	.....	.....	.....	15	100	77 51
1	250	4 53	.....	50	22	19	225	83 05
.....	375	2 66	2	250	5 48	17	15	66 21
.....	.....	.....	1	250	2 76	3	123	13 46
.....	375	2 22	.....	.....	.....	13	95	50 19
.....	375	2 25	.....	.....	.....	.....	.....	.....
1	.....	3 51	5	145	13 44	64	187	136 13
.....	375	2 64	.....	.....	.....	24	460	78 82
2	250	8 78	.....	250	83	7	380	33 90
16	400	62 31	6	15	9 96	86	255	412 08
12	125	38 89	14	490	29 62	78	12	262 17
1	125	4 25	2	485	5 00	18	280	62 94
.....	225	1 35	10	55	19 04	44	222	147 01
1	275	5 15	15	250	31 36	13	85	40 19
.....	.....	.....	.....	.....	.....	.....	130	1 17
.....	.....	.....	.....	315	1 36	14	220	59 78
.....	330	2 08	.....	.....	.....	.....	.....	.....
.....	250	1 62	1	166	2 88	9	383	63 56
.....	125	75	.....	250	1 08	2	140	10 13
.....	.....	.....	.....	.....	.....	24	75	89 62
1	375	4 70	3	30	6 28	9	22	34 67
.....	.....	.....	.....	.....	.....	.....	250	2 25
.....	.....	.....	.....	.....	.....	.....	250	1 90
.....	.....	.....	1	.....	1 65	1	.....	3 00
.....	.....	.....	9	275	15 78	4	490	21 96
.....	125	86	2	79	3 57	.....	425	8 57
1	250	5 16	1	120	2 41	23	440	100 38
2	100	7 45	5	465	10 78	6	287	38 50

## PAPER ACCOUNT — Continued.

	Cardboard.		
	Reams.	Sheets.	Cost.
<i>To Whom Issued — Concluded.</i>			
Building and Loan Department.....	.....	.....	.....
Examiner of Stationary Engineers.....	.....	400	12 00
Commissioner of Soldiers' Claims.....	.....	.....	.....
State Board of Arbitration.....	.....	.....	.....
Ohio Soldiers' and Sailors' Orphans' Home.....	.....	.....	.....
F. J. Heer.....	.....	.....	.....
The Springfield Publishing Co.....	.....	.....	.....
Ohio State Agricultural Experiment Station.....	.....	.....	.....
Highway Department .....	.....	52	1 56
Fish and Game Commission.....	.....	.....	.....
*Settled by cash payment.....	.....	.....	.....
On hand November 15, 1906.....	1	315	39 45
Totals .....	10	231	\$296 33

\* Paid into State Treasury by contracting printer for paper not returned.

PAPER ACCOUNT — Continued.

Onion Skin.			Folio Post.			Linen Folio.		
Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.
.....	125	86	.....	65	29	6	.....	24 90
.....	.....	.....	2	10	4 34	4	300	17 98
.....	.....	.....	.....	.....	.....	3	30	13 42
.....	.....	.....	.....	.....	.....	260	.....	2 34
.....	.....	.....	.....	.....	.....	6	266	104 00
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	125	75	2	190	4 46	5	.....	20 40
.....	.....	.....	.....	.....	.....	1	.....	3 80
.....	.....	.....	.....	.....	.....	4	234	9 00
3	.....	4 50	64	20	136 02	36	371	1,416 91
61	138	\$196 80	163	.....	\$327 33	945	291	\$4,094 25



## PAPER ACCOUNT — Continued.

	Bound Double Cap.		
	Reams.	Sheets.	Cost.
<i>Of Whom Ordered.</i>			
On hand November 15, 1905.....	354	250	\$1,406 57
The Chatfield & Woods Co.....	82	283	314 01
The Central Ohio Paper Co.....			
Browne & Stuart.....			
The Springfield Publishing Co.....			
The Columbus Lithograph Co.....			
The Ruggles-Gale Co.....	41		118 08
The Webb Stationery and Printing Co.....			
The Keogh & Rike Paper Co.....			
The Whitaker Paper Co.....			
The Columbus Envelope Co.....			
E. H. Sell & Co.....			
Springfield Bindery .....			
Beck & Orr.....			
Totals .....	478	33	\$1,838 66
<i>To Whom Issued.</i>			
Executive Department .....	6	25	25 42
Department of State.....	28	464	118 41
Auditor of State.....	30	355	120 78
Treasurer of State.....			
Attorney General .....	1	188	520
Supreme Court and Law Library.....	3		10 17
Clerk of Supreme Court.....	1	162	5 61
Inspector of Workshops and Factories.....	6	110	24 09
Fire Marshal .....		125	1 13
State School Commissioner.....	140	410	586 45
Board of Public Works.....	7	190	25 47
Senate .....	4	10	16 88
House of Representatives.....	25	395	88 35
Adjutant General .....	87	123	309 40
Insurance Commissioner .....	11	360	46 06
Bureau of Labor Statistics.....	3		12 48
Mine Inspector .....	7	250	31 38
Board of Pardons.....			
State Library .....		260	1 56
Canal Commission .....		131	1 24
Railroad Commission .....	5	162	22 31
Supervisor of Public Printing.....		100	84
State Board of Health.....		125	1 18
State Board of Charities.....	1	25	3 27
State Board of Appraisers and Assessors.....			
Reporter of Supreme Court.....	1	125	5 65
State Bindery .....			
Clerk of Senate.....	3	295	14 58
Clerk of House of Representatives.....	2	305	10 86
Agricultural Department .....	24	300	99 51
Dairy and Food Commissioner.....	1	319	10 87

PAPER ACCOUNT — Continued.

Demy Linen Ledger.			Medium Linen Ledger.			Super Royal Linen Ledger.		
Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.
8	125	\$47 99	72	320	\$582 15	6	407	\$110 48
11	50	87 88				3	150	56 93
						2		34 00
60		332 64		60	547 20	60		784 08
79	175	\$468 51	132	320	\$1,129 35	72	77	\$985 49
1	20	5 71				10	395	181 24
1	252	8 46	18	130	150 74	5	296	73 41
7	40	39 29	8	265	71 95		305	8 31
				90	1 71		197	5 37
				150	2 93			
				24	46			
1	55	6 19	1	175	12 60		110	3 00
	250	2 89	2	295	9 87		55	1 50
	160	1 85				3	175	43 97
1	20	5 78	1	255	13 97			
6	120	50 47		180	3 60			
6	270	46 56		250	4 99			
	250	4 00	23	340	218 53	3	420	50 66
10	125	56 91	2	365	26 20	21	290	283 38
	305	3 53	8	74	69 95	1	380	23 41
				210	3 94	2	470	38 96
				130	2 59			
1	126	6 96		176	2 66		140	3 81
	63	73		356	6 77		320	8 71
				24	46			
1	55	6 20						
			1		9 56			
2	425	16 01		80	1 59			
3	295	20 06	5	75	43 25			
						2	375	37 55

PAPER ACCOUNT — Continued.

	Bound Double Cap.		
	Reams.	Sheets.	Cost.
<i>To Whom Issued — Concluded.</i>			
Building and Loan Department.....	2	250	13 10
Examiner of Stationary Engineers.....	1	265	5 19
Commissioner of Soldiers' Claims.....		405	3 45
State Board of Arbitration.....			
Ohio Soldiers' and Sailors' Orphans' Home.....			
F. J. Heer.....	5		15 00
The Springfield Publishing Co.....			
Ohio State Agricultural Experiment Station.....			
Highway Department .....	7	10	29 35
Fish and Game Commission.....			
On hand November 15, 1906.....	54	289	173 42
Totals .....	478	33	\$1,838 66



PAPER ACCOUNT—Continued.

Demy Linen Ledger.			Medium Linen Ledger.			Super Royal Linen Ledger.		
Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.
				12	23			
	250	2 90						
							278	7 92
32	454	184 01	48	424	409 28	16	191	214 29
79	175	\$468 51	132	320	\$1,129 35	72	77	\$985 49

## PAPER ACCOUNT — Continued.

	Double Medium Ledger.		
	Reams.	Sheets.	Cost.
<i>Of Whom Ordered.</i>			
On hand November 15, 1905.....	20	300	\$577 50
The Chatfield & Woods Co.....			
The Central Ohio Paper Co.....	40		345 60
Browne & Stuart.....			
The Springfield Publishing Co.....			
The Columbus Lithograph Co.....			
The Ruggles-Gale Co.....			
The Webb Stationery and Printing Co.....			
The Keogh & Rike Paper Co.....			
The Whitaker Paper Co.....			
The Columbus Envelope Co.....			
E. H. Sell & Co.....			
Springfield Bindery .....			
Beck & Orr.....			
Totals .....	60	300	923 10
<i>To Whom Issued.</i>			
Executive Department .....	1	290	44 92
Department of State.....		201	11 29
Auditor of State.....	29	465	305 20
Treasurer of State.....			
Attorney General .....			
Supreme Court and Law Library.....			
Clerk of Supreme Court.....			
Inspector of Workshops and Factories.....			
Fire Marshal .....			
State School Commissioner.....			
Board of Public Works.....		85	4 96
Senate .....			
House of Representatives.....			
Adjutant General .....	10	200	291 67
Insurance Commissioner .....			
Bureau of Labor Statistics.....		190	3 42
Mine Inspector .....			
Board of Pardons.....			
State Library .....			
Canal Commission .....			
Railroad Commission .....			
Supervisor of Public Printing.....			
State Board of Health.....		85	4 96
State Board of Charities.....			
State Board of Appraisers and Assessors.....			
Reporter of Supreme Court.....			
State Bindery .....			
Clerk of Senate.....			
Clerk of House of Representatives.....			
Agricultural Department .....			
Dairy and Food Commissioner.....			





PAPER ACCOUNT — Continued.

	Double Medium Ledger.		
	Reams.	Sheets.	Cost.
<i>To Whom Issued — Concluded.</i>			
Building and Loan Department.....	.....	.....	.....
Examiner of Stationary Engineers.....	.....	.....	.....
Commissioner of Soldiers' Claims.....	.....	.....	.....
State Board of Arbitration.....	.....	.....	.....
Ohio Soldiers' and Sailors' Orphans' Home.....	.....	.....	.....
F. J. Heer.....	.....	.....	.....
The Springfield Publishing Co.....	.....	.....	.....
Ohio State Agricultural Experiment Station.....	.....	.....	.....
Highway Department .....	.....	.....	.....
Fish and Game Commission.....	.....	.....	.....
On hand November 15, 1906.....	17	224	256 68
Totals .....	60	300	923 10

PAPER ACCOUNT — Continued.

Imperial Linen Ledger.			Bond 16 x 26.			Double Folio Linen Ledger.		
Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	125	..... 95	..... 8	.....	..... 69 12
.....	.....	.....	.....	125	..... 95	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	125	..... 95	.....	.....	.....
..... 57	..... 187	..... 106 944	.....	.....	.....	..... 9	..... 5	..... 55 02
89	455	\$1,812 90	30	375	\$89 35	124	393	\$1,057 03

PAPER ACCOUNT — Continued.

	Royal Bond.		
	Reams.	Sheets.	Cost.
<i>Of Whom Ordered.</i>			
On hand November 15, 1905.....			
The Chatfield & Woods Co.....	37	250	\$129 60
The Central Ohio Paper Co.....	21		33 37
Browne & Stuart.....			
The Springfield Publishing Co.....			
The Columbus Lithograph Co.....			
The Ruggles-Gale Co.....			
The Keogh & Rike Paper Co.....			
The Whitaker Paper Co.....			
The Columbus Envelope Co.....			
E. H. Sell & Co.....			
Springfield Bindery .....			
Beck & Orr.....			
Totals .....	58	250	162 97
<i>To Whom Issued.</i>			
Executive Department .....			
Department of State.....	18		25 92
Auditor of State.....			
Treasurer of State.....			
Attorney General .....			
Supreme Court and Law Library.....			
Clerk of Supreme Court.....			
Inspector of Workshops and Factories.....			
Fire Marshal .....			
State School Commissioner.....			
Board of Public Works.....			
Senate .....			
House of Representatives.....			
Adjutant General .....			
Insurance Commissioner .....	37	250	129 60
Bureau of Labor Statistics.....			
Mine Inspector .....			
Board of Pardons.....			
State Library .....			
Canal Commission .....			
Railroad Commission .....			
Supervisor of Public Printing.....			
State Board of Health.....	1		2 25
State Board of Charities.....			
State Board of Appraisers and Assessors.....			
Reporter of Supreme Court.....			
State Bindery .....			
Clerk of Senate.....			
Clerk of House of Representatives.....			
Agricultural Department .....			
Dairy and Food Commissioner.....			
Building and Loan Department.....			





## PAPER ACCOUNT — Concluded.

	Royal Bond.		
	Reams.	Sheets.	Cost.
<i>To Whom Issued — Concluded.</i>			
Examiner of Stationary Engineers.....	.....	.....	.....
Commissioner of Soldiers' Claims.....	.....	.....	.....
State Board of Arbitration.....	.....	.....	.....
Ohio Soldiers' and Sailors' Orphans' Home.....	.....	.....	.....
F. J. Heer.....	2	.....	5 20
The Springfield Publishing Co.....	.....	.....	.....
Ohio State Agricultural Experiment Station.....	.....	.....	.....
Highway Department .....	.....	.....	.....
Fish and Game Commission.....	.....	.....	.....
On hand November 15, 1906.....	.....	.....	.....
Totals .....	58	250	\$162 97

PAPER ACCOUNT — Concluded.

Double Royal Linen Ledger.			Parchment.			Envelopes	
Reams.	Sheets.	Cost.	Reams.	Sheets.	Cost.	Number.	Cost.
.....	.....	.....	.....	.....	.....	18,500	48 12
.....	.....	.....	.....	.....	.....	11,150	31 12
.....	.....	.....	.....	.....	.....	3,000	8 53
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	14,200	39 07
.....	.....	.....	.....	.....	.....	1,000	2 25
2	440	87 50	.....	.....	.....	85,025	235 03
5	180	\$160 69	1	20	\$41 25	877,476	\$2,580 53











SIXTY-FIRST ANNUAL REPORT  
OF THE  
COMMISSIONERS  
OF THE  
OHIO STATE LIBRARY  
TO THE  
Governor of the State of Ohio  
FOR THE  
YEAR ENDING NOVEMBER 15, 1906.



BOARD OF LIBRARY COMMISSIONERS.

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J. F. McGREW.....	Springfield.
CHARLES ORR .....	Cleveland.
JOHN MCSWEENEY .....	Wooster.



## STATE LIBRARY STAFF.

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### GENERAL LIBRARY.

C. B. GALBREATH.....	<i>Librarian.</i>
ALICE BOARDMAN .....	<i>Assistant Librarian.</i>
JAMES R. HALE.....	<i>Document Clerk.</i>
LOUISE SCHOENEWEISS .....	<i>Assistant Secretary and Stenographer.</i>
STELLA HORN .....	<i>Library Assistant.</i>
ALICE S. DAVIS.....	<i>Library Assistant.</i>
GERTRUDE F. HESS.....	<i>Library Assistant.</i>
MARY MORRIS .....	<i>Library Assistant.</i>
JOHN RAMSAY .....	<i>Janitor.</i>
EDWIN TRAUTMAN .....	<i>Page.</i>

### TRAVELING LIBRARY.

IDA K. GALBREATH.....	<i>Superintendent.</i>
BESSIE HERRMAN .....	<i>Assistant.</i>
JENNIE HERRMAN .....	<i>Assistant.</i>
JENNIE Z. CORMAN.....	<i>Assistant.</i>
AGNES CLARKE .....	<i>Assistant.</i>
JOHN WILSON .....	<i>Janitor.</i>

NOTE:—A. Earl English and Nola M. Hilliard were temporarily employed in the Traveling Library Department.

## REPORT OF THE BOARD OF LIBRARY COMMISSIONERS.

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COLUMBUS, OHIO, November 15, 1906.

*To His Excellency, ANDREW L. HARRIS, Governor of Ohio:*

We have the honor to submit the sixty-first annual report of the Board of Library Commissioners, which is the eleventh under the library act of 1896.

We are pleased to record continued and satisfactory progress in the work of all departments of the Library. Seven thousand three hundred and seventeen volumes have been added since our last report. The Traveling Library Department has surpassed the record of any previous year. In communities reached and volumes issued by this system of book distribution, Ohio leads all states in the Union. The General Library Department shows a marked increase in volumes issued to patrons and used for reference purposes in the reading room. This increase aggregates in round numbers 10,000 volumes. For the month of October it was 1,405. The mail brings daily requests for information and books. The number of registered patrons is now increasing at the rate of 1,000 a year. Gratifying progress has been made in the more thorough classification of American History in the General Library. The literature relating to Ohio has been more carefully analyzed, and much has been done to make the material in this department more readily accessible to patrons.

The great need of the Library is additional room. The present crowded condition prevents the proper care of books and hinders efficient administration. The additional demands that will come with the departments of library organization and inspection, now partially authorized, will make the need imperative. Provision for the new building, now contemplated in the bill before the Senate, cannot be made too soon for the relief of the Library.

The matters to which we have made brief reference and others of almost equal importance, are set forth specifically in the report of the State Librarian, which we herewith transmit.

In conclusion, we wish to express our appreciation of the services of the efficient State Librarian and his assistants on the library staff who have rendered faithful and intelligent support. With the rapid extension of the free public library system throughout the United States in recent years has come the demand for skilled and efficient service. So far as we

have been able to do so within the limits of appropriations, it has been the aim of the Board to meet that demand. The symmetrical growth and increased usefulness of the State Library are the results of this policy. To keep abreast of the times and meet the reasonable expectations of the public, the Board must employ those who are able satisfactorily to perform the duties of their positions and to give such aid to the library interests of the state as the law contemplates. It will continue to be the aim of the Board to reward good work with secure tenure of office and gradually to raise the standard of qualifications for those employed in the Library.

Respectfully submitted,

J. F. MCGREW,

CHARLES ORR,

JOHN MCSWEENEY,

*Board of Library Commissioners.*



# STATE LIBRARIAN'S REPORT.

COLUMBUS, OHIO, November 11, 1906.

*To the Board of Library Commissioners:*

GENTLEMEN:—I have the honor to submit to you the report of the State Librarian for the year ending November 15, 1906. Within the past year additions have been made as follows:

	Volumes.
To the Traveling Library Department .....	4,635
To the General Library Department.....	2,682
	<hr/>
Total .....	7,317
Withdrawn .....	257
	<hr/>
Net increase since last report.....	7,060

The number of volumes in the State Library last year after inventory was 105,675. This, with the net increase for the year, makes a total of 112,735 volumes.

## ADDITIONS TO THE LIBRARY.

Reference to the list of additions to the Library, appended to this report, will show that the satisfactory standard of previous years has been fully maintained. While comparatively few rare and out of print books have been accessioned, the list contains a goodly number of volumes on history and sociology, and some substantial and valuable sets of the writings of eminent Americans. Among these are the collected works of Clay, Hamilton, Jefferson, Fiske, Stowe and Thoreau. There have also been added LaFollett's "The Making of America," and Thatcher's "The Ideas That Have Influenced Civilization." Other works of a similar character have been added.

## CATALOGUING.

Within the past year substantial progress has been made in the more thorough classification of portions of the Library. All of the literature relating to Ohio, except the state documents, has been carefully analyzed, and numerous cross-reference cards have been added to the catalogue, greatly facilitating access to material in this department. The check list of Ohio publications, published in 1897, and the revision of this work in 1902, by Mr. Bowker, constitute a fair general guide to our state pub-

lications. The early journals of the General Assembly contain in addition to the proceedings of the Senate and the House of Representatives some valuable supplemental material in the form of reports of committees and of the various state departments. It is hoped that within the coming year the more important of these papers may be indexed. The thorough analysis of these journals, however, and of the different departmental reports is not deemed advisable at this time. The work would entail an expense for which no provision has been made. Besides, this labor will probably be unnecessary, for the reason that the work has already been undertaken by one of the great libraries of the East. An effort will there be made to analyze thoroughly all the official literature of the different states of the Union. The results in dictionary form will be published, and each state, at a nominal expense, will share in the results of this generous and monumental bibliographical venture.

#### MONTHLY BULLETIN.

The monthly bulletin as regularly issued the past year has taken a wider range than originally contemplated. Some of the issues have been devoted to the following subjects:

*Primaries and Elections; Direct Legislation — Referendum; Corrupt*

*Practices — Passes.*

Magazine and book references to material on these subjects were published in the Bulletin for December, 1905. Illustrative acts and constitutional provisions regulating passes are included in this number.

#### *Capital Punishment.*

A very useful bibliography on this subject is contained in the Bulletin for January, 1906. It gives the summary of the experience of the states that have abolished the death penalty; statistics of crime prior to and following abolition; a table of lynchings and executions in the different states from 1890 to 1905, and numerous references to book and magazine article for and against capital punishment.

#### *Seals and Flag.*

The July number contained a description of the seals of the Northwest Territory and Ohio, with brief account of their origin, illustrated with six cuts; also an illustration of the state flag, with brief sketch of its origin and symbolism.

#### *State Flower and Ohio Buckeye.*

The August number explained the origin of the state flower, the scarlet carnation, and included in full the interesting speech delivered by Hon. Elijah W. Hill on the occasion of the adoption of his resolution



designating our state flower. Following this was a description of the Ohio Buckeye. Both subjects are appropriately illustrated.

*Ohio Jewels — McKinley Memorial.*

The September issue contained a description of the statuary on the State House grounds. The origin of the famous group, known as Ohio's Jewels" is fully set forth. The speech of General R. Brinkerhoff, who suggested the idea embodied in granite and bronze, is also given as he delivered it on the occasion of the unveiling at the World's Columbian Exposition, Chicago, in 1893.

The favor with which these special issues have been received is ample warrant for devoting future numbers of the Bulletin to timely topics.

LEGISLATIVE REFERENCE.

House Bill No. 6, by Mr. Stockwell, providing for a legislative reference department, was introduced early at the last session of the General Assembly. It is published in full in the appendix to this report. While it specifically authorizes much that is already done by the State Library, it contemplates new activities in a separate department and an appropriation adequate to the additional labor necessary. At the close of the season the bill was in the Library Committee of the Senate, having passed the House by a practically unanimous vote. It is hoped that it may become a law at the next session, as the work that it contemplates is now successfully and satisfactorily done in a number of the more progressive states. Such a department would render valuable service to the General Assembly and those interested in its work.

STATE ARCHIVES.

Nothing has been done within the year toward the establishment of a department of archives. The recommendation of last year is renewed.

NEW LIBRARY BUILDING.

The obvious need of additional room, which has been the burden of every report of this department for a number of years, has claimed the attention of the General Assembly and has led to an initial movement for the relief of the crowded condition of the Library that is truly encouraging. Senate bill No. 195, by Mr. Crist, was introduced near the close of the last session, reported favorably from the library committee, and referred to the finance committee. It provides for the erection of a building for the State Library and the State Archaeological and Historical Society. It will be found in the appendix to this report. The crowded condition of the Library has long been a source of hindrance to its work. Comment on the proposed measure of relief has all been favorable. The people of the state who have ever favored a wise expenditure of the public



money for educational purposes, will certainly sanction the appropriation contemplated in the bill, which is proportionately smaller than Andrew Carnegie's free gifts for similar purposes to a number of the cities of Ohio. Other progressive states have fine separate buildings for the accommodation for their libraries. In no other state in the Union is there any attempt to carry on a work as extensive as that done by the Ohio State Library with such meager provision for room. With a library organizing department already authorized and a bill for a legislative reference department "half a law," the demand for additional quarters becomes imperative.

#### LIBRARY LAWS ENACTED IN 1906.

Among the laws enacted at the last session of the General Assembly was an act empowering the Board of Library Commissioners to employ a library organizer, and providing a county library system for the state. An appropriation only is necessary to make effective the provision relative to the library organizer. The section authorizing the establishment of county libraries makes it easily possible for any county in the state to provide, at small expense, library privileges for all its citizens. When a library already exists, preferably at the county seat, those interested in opening it to the free use of all the people of the county should present their plea to the county commissioners, set forth the advantages of the system and urge that a contract be entered into with the library trustees to open the library to the people of the county. The sympathy and support of the press, the schools and public spirited citizens of every class should be enlisted in the movement—a movement worthy of the enthusiastic advocacy of every one who has faith in the beneficent educational agency of the free public library. The system is ideal. With the central library at the county seat, branch libraries in the outlying villages and stations for the delivery of books at convenient points of access in the rural districts, the people of the entire county can have the uplifting influence that springs from the companionship with books. This ideal system is practical as well. It has been tested in the county of Van Wert, Ohio, since the first day of the year 1901, and it is now one of the most popular institutions of that county. The new law brings the opportunity for such a work to every county in the state.

#### TRAVELING LIBRARY DEPARTMENT.

The Traveling Library Department continues to hold its place as a popular book-loaning agency. In no previous year have so many volumes been distributed or more satisfactory service rendered. In volumes issued and communities reached through its traveling library system, Ohio still leads all the states. In the year that has closed 40,007 volumes have been issued to 796 different communities. The nearest approach to this record on the part of any other state is 34,528 volumes

issued to 660 communities. The flexible system of book selection for these traveling libraries, which originated in the Ohio State Library, is now followed by practically all the states that operate a traveling library department. The following table indicates the work done by this department since its organization in 1896:

*Libraries have been issued from the Traveling Library Department as follows:*

Year Ending Nov. 15.	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906*
To women's clubs.....	2	37	69	75	125	138	146	140	131	159	187
To schools .....		10	89	177	252	251	310	409	468	437	526
To granges .....		2	92	46	95	100	80	71	78	129	110
To independent study clubs....		7	128	90	179	224	153	181	160	168	126
To religious organizations.....		1	.....	35	50	50	87	85	89	82	94
To libraries .....		4	.....	20	10	.....	27	16	26	33	27
To men's clubs.....		1	.....	2	.....	.....	.....	21	14	19	36
Total .....	2	62	378	445	711	763	803	923	966	1027	1106
Number of volumes.....	50	1331	9887	12877	19505	20698	22031	27078	30935	36441	40007

\*Libraries issued within the year ending Nov. 15, 1906, were sent to 796 communities.

INVENTORY.

Within the past year a complete inventory was made of the books in both departments of the Library. This shows that there were out and unaccounted for in the General Library Department 112 volumes, and in the Traveling Library Department 356 volumes. These figures cover a period of three years in the former and ten years in the latter. Many of these volumes will certainly be recovered; but if none of them are returned the loss will be about 14 in every 10,000 for three years in the General Library Department, and 89 in every 10,000 for ten years in the Traveling Library Department. The loss on the number of volumes *issued* from the Traveling Library Department would be about 16 in every 10,000.

LIBRARY CONDITIONS.

The condition of library interest throughout the state naturally becomes, with each passing year, more and more a matter of concern to the State Library. Free libraries are looking to it for advice and assistance. Ohio has felt the stimulus of the library movement that in these later years has found its way to all parts of the United States. Few other states have enjoyed in larger measure the gifts of Andrew Carnegie for library purposes. The free public library is gradually taking its place as one of the permanent and necessary agencies of our educational system. With its development comes the demand for experienced, trained and efficient service. Interest in the work and demonstrated ability to do it, are the prime qualifications. These alone should insure tenure of office. In the past the public library was used as a training school, often

with no very definite standard for those entering upon apprenticeship. In larger libraries conditions have been improved by more rigid entrance requirements. But the apprentice plan, under the most favorable conditions, has its limitations, and cannot be relied upon for the building up of the most efficient library staff. Besides, it is expensive. While the apprentice is learning some member of the staff must be teaching. This interferes with the progress of library work. Library schools are now successfully conducted and are ready to meet the demand for trained librarians and assistants. The time is approaching when the library profession, like the teachers' profession, will be safeguarded by established standards and legal certificates.

C. B. GALBREATH,  
*State Librarian.*



## COST OF MAINTAINING A FEW IMPORTANT LIBRARIES OF THE U. S.

In a report submitted for the current year, the state librarian of California makes the following statement relative to appropriations for some of the leading libraries of this country:

ANNUAL INCOME, IN ROUND NUMBERS, OF A FEW OF THE MOST IMPORTANT LIBRARIES IN THE UNITED STATES.

Library.	Population 1900.	No. of Employees.	Total.
Boston Public .....	560,892	275	\$321,080
Brooklyn Public .....	1,166,582	244	322,181
Buffalo Public .....	352,387	82	87,628
Chicago Public .....	1,698,575	175	220,000
Cincinnati Public .....	325,902	100	130,000
Minneapolis Public .....	202,718	27	68,477
Cleveland Public .....	381,768	245	266,586
New York State .....	7,268,021	*	136,720
Philadelphia Public .....	1,293,697	168	161,896
Pittsburg Carnegie Library .....	321,616	106	200,000
St. Louis Public Library .....	575,238	60	180,000
Wisconsin State Historical Society Library, Law Library and Free Library Commission.....	2,069,042	38	65,000
California State Library .....	1,485,053	19	42,600

\* In 1900 the number of employees in the New York State Library was 107.

Accepting this statement as the latest accurate information on this subject, we have only to add that Ohio, with a population, in 1900, of 4,157,543, employs 16 persons in the State Library and expends on all of its departments \$24,740.

With the expenditures for the states of New York, Wisconsin and California is included in each case the appropriation for the law library. This in Wisconsin is \$8,000. It is probably somewhat less in California, and slightly more in New York. But deducting \$8,000 from each, the appropriations still far exceed those made for Ohio.

FINANCIAL STATEMENT.

RECEIPTS.

	Books and periodicals.	Traveling libraries.	Librarian's salary.	Ass't Librarian's salary.	Stenographer's salary.	Janitor's salary.	Contingent expenses.	Commissioners' expenses.	Document clerk.	Four library assistants.	Carpet, repairs and furniture.	Sec'y Library Commission.
November 16, 1905.....	\$559 26	\$1,470 04	\$375 00	\$300 00	\$180 00	\$225 00	\$392 45	\$479 75	\$240 00	\$670 00	\$7 95	\$125 00
1906 .....	3,500 00	9,200 00	1,500 00	1,200 00	900 00	900 00	1,800 00	500 00	960 00	3,280 00	500 00	500 00
Totals .....	\$4,059 26	\$10,670 04	\$1,875 00	\$1,500 00	\$1,080 00	\$1,125 00	\$2,192 45	\$979 75	\$1,140 00	\$3,950 00	\$507 95	\$625 00

EXPENDITURES AND BALANCES.

	Books and periodicals.	Traveling libraries.	Librarian's salary.	Ass't Librarian's salary.	Stenographer's salary.	Janitor's salary.	Contingent expenses.	Commissioners' expenses.	Document clerk.	Four library assistants.	Carpet, repairs and furniture.	Sec'y Library Commission.
November 16, 1905, to November 15, 1906 . . . .	\$3,306 65	\$8,609 23	\$1,500 00	\$1,200 00	\$855 00	\$900 00	\$2,014 58	\$281 70	\$960 00	\$3,182 50	\$327 97	\$500 00
November 16, 1906 . . . . .	752 61	2,060 87	375 00	300 00	225 00	225 00	177 87	198 05	240 00	767 50	179 98	125 00

## LIST OF ADDITIONS TO THE LIBRARY.

NOVEMBER 15, 1905, TO NOVEMBER 15, 1906.

ARRANGED BY AUTHORS.

## GENERAL LIBRARY.

- Abbott, Lyman.  
Great companion. 1904.  
Personality of God. 1905.
- Acton, J. E. D. A., lord.  
Lecture on the study of history. 1905.
- Adams, E. K.  
Mechanical and electrical inventions. 2 v. 1900.
- Adams, H. C.  
Science of finance. 1905.
- Adams, J. B.  
Breezy western verse. 1899.
- Adams, O. F.  
Dictionary of American authors. 1905.
- Albery, F. F. D.  
Omar von Berlin. c. 1904.
- Alderman, E. A.  
Brief history of North Carolina. 1896.
- Alexander, D. A. S.  
Political history of the state of New York. 2 v. 1906.
- Alexander, William.  
Life insurance company. 1905.
- Allen, C. F. R., tr.  
Book of Chinese poetry. 1891.
- Allen, Joseph.  
Battles of the British navy. 2 v. 1868.
- Alston, Leonard.  
Modern constitutions in outline. 1905.
- Alvensleben, Max, baron von.  
With Maximilian in Mexico. 1867.
- American Academy of Political and Social Science.  
Social legislation and social activity. 1902.
- American bar association.  
Report, 1905. 1905.
- American federation of labor.  
Proceedings, 1889-1901, 1904-05. 5 v. 1905.
- American library association.  
Proceedings, 1896, 1898-99, 1902-04. 6 v. 1897-1904.
- American society for the prevention of cruelty to animals.  
Annual report, 1897. 1898.



Anderson, W. L.

Country town. 1906.

Andrews, M. R., comp.

Notes from manuscripts in Marietta college library. 1905.

Annual library index, 1905. 1906.

Arbiter in council. 1906.

Armstrong, G. B., Jr.

Beginnings of the true railway mail service. 1906.

Armstrong, W. J.

Heroes of defeat. 1905. (2 copies.)

Armstrong association.

Work and influence of Hampton. 1904.

Arnold, A. F.

Sea-beach at ebbside. 1903.

Asakawa, Kanichi.

Russo-Japanese conflict, its causes and issues. 1904.

Ashhurst, R. L.

Contemporary evidence of Shakespeare's identity. 1905.

Ashtabula county atlas. 1905.

Atkinson, F. W.

Philippine islands. c. 1905.

Audubon, J. W.

Audubon's western journal, 1849-50. 1906.

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|---------------------------------|-----------------------------------|
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| Bucyrus Evening Telegram.       | New York Tribune.                 |
| Canton Morning News.            | Ohio State Journal.               |
| Cincinnati Commercial Tribune.  | Pittsburg Dispatch.               |
| Cincinnati Enquirer.            | Sandusky Register.                |
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| Columbus Evening Press-Post.    | Toledo News-Bee.                  |
| Dayton Daily Journal.           | Urbana Daily Times Citizen.       |
| Delaware Daily Gazette.         | Wooster Daily Republican.         |
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Weekly Examiner.	Galion.
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Bowling Green.	Gallipolis.
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Sentinel.	Ironton.
Cambridge.	Register.
Herald.	Jackson.
Jeffersonian.	Herald.
Canton.	Lancaster.
Ohio Volks-Zeitung.	Weekly Gazette.
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Universal Messenger.	Napoleon.
Coshocton.	Democratic Northwest.
Age.	New Lexington.
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East Liverpool.	Ohio Democrat and Times.
Weekly Crisis.	New Waterford.
East Palestine.	Magnet.
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Paulding.	Auglaize Republican.
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Uhrichsville.	Herald.
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Annals of the Academy of Political and Social Science.	Columbus Horticultural Society, Journal of.
Arena.	Columbus Medical Journal.
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Marriage of William Ashe. 1905. (3 copies.)
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Cotton Mather, the Puritan priest. c. 1891. (2 copies.)
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Laureates of England. c. 1895.
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Little journey to Italy. c. 1902.
- White, E. O.  
Only child. 1905.
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Practical designing. 1902.
- White, Horace.  
Money and banking. 1902.
- White, Mary.  
Child's rainy day book. 1905. (3 copies.)  
How to make pottery. 1904.
- White, S. E.  
Magic forest. 1903.  
(The) mountains. 1905.  
(The) pass. 1906.
- White, W. A.  
In our town. 1906.
- Whiting, Lilian.  
Outlook beautiful. 1905.
- Whitney, A. D. T.  
Faith Gartney's girlhood. c. 1893.  
We girls. c. 1898.
- Whitney, Caspar.  
Jungle trails and jungle people. 1905.  
On snow shoes to the barren grounds. 1896.
- Whittier, J. G.  
Poetical works. c. 1848-94. (3 copies.)  
Snow bound, and other poems. c. 1898. (10 copies.)
- Whittier, J. G., ed.  
Selections from child life in poetry and prose. c. 1894. (5 copies.)
- Who's who for 1906. 1906.
- Whymper, Edward.  
Chamonix, and the range of Mt. Blanc. 1903.  
Scrambles amongst the Alps. 1900.
- Whyte, Alexander.  
Bible characters. 6 v. 1898-1901.
- Wide world. 1902.
- Wiggin, K. D.  
Rose o' the river. 1905. (5 copies.)
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American city, a problem in democracy. 1906. (4 copies.)  
Municipal government in Michigan and Ohio. 1896.

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Ambitious man. c. 1896.
- Wilkins, M. E.  
(The) debtor. 1906.  
In colonial times. c. 1899.
- Wilkins, W. H.  
Alien invasion. 1892.
- Wilkinson, J. F.  
Mutual thrift. 1891.
- Willcox, W. F.  
Divorce problem. 1897.
- Willey, F. O.  
Laborer and capitalist. c. 1905.
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- Wilson, Daniel.  
Memorials of Edinburgh in olden time. 2 v. 1891.
- Wilson, Francis.  
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History of the rise and fall of slave power in America. 3 v. c. 1872-77.
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Presidents of the United States, 1789-1898. c. 1886-1905. (5 copies.)
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Folk-lore stories. 1903. (11 copies.)  
Place of the story in early education. c. 1892.
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Channel islands. 1904.
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Liquor problem in its legislative aspects. 1898.
- Wingate, C. F.  
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- Wister, Owen.  
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- Wit, Augusta de.  
Java, facts and fancies. 1906.
- Wit and humor of the American bar. 1905.
- Wolfe, T. F.  
Literary pilgrimage among the haunts of famous British authors. 1897-1903.  
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- Wolfenstein, Martha.  
Renegade, and other stories. 1905.
- Woltmann, Alfred and Woermann, Karl.  
History of painting. 2 v. 1906. (2 sets.)
- Wood, C. S.  
Camp-fires on the Scioto. c. 1905. (3 copies.)
- Wood, Eugene.  
Back home. 1905.
- Wood, M. H.  
Children's first story book. c. 1902.
- Woodbury, G. E.  
History of wood engraving. 1883.
- Woolson, G. A.  
Ferns and how to grow them. 1905.
- Worsaae, J. J. A.  
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- Wright, M. O.  
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- Wyer, H. S.  
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Studies in the evolution of English criticism. 1903.
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Bell's miniature set of musicians. 1903.
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- Yonge, C. D.  
Life of Sir Walter Scott. n. d. (3 copies.)
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Little Lucy's wonderful globe. 1904. (5 copies.)
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Mastersingers: appreciations of music and musicians. pref. 1901.
- Young, E. R.  
Hector, my dog. c. 1905. (10 copies.)
- Young, Robert.  
Trophies from African heathenism. 1892. (3 copies.)
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Zacher, Albert.

Rome as an art city. 1905.

Zangwill, Louis.

One's womankind. 1902.

Zimmern, Alice.

Old tales from Rome. 1906.

Zimmern, Helen.

Maria Edgeworth. 1891. (3 copies.)

Zueblin, Charles.

Decade of civic development. 1905.

## LEGISLATIVE REFERENCE DEPARTMENT.

HOUSE BILL NO. 6, BY MR. STOCKWELL.\*

To establish a legislative reference department for the use of members of the general assembly of the state of Ohio, and other state officials, and to amend section 343 and to supplement section 350 of the Revised Statutes of Ohio.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 343 of the Revised Statutes of Ohio be amended and section 350 of the Revised Statutes of Ohio be supplemented so as to read as follows:

SEC. 343. The board may expend a sum not exceeding \$4,000.00 annually, for clerical assistance and incidental and necessary expenses, including traveling expenses in the discharge of its duties; and all sums expended under the provisions of this act shall be paid by the state treasurer on the warrant of the auditor of the state, after the bills therefor have been approved by the board; provided, however, that not less than \$3,000.00 of this amount shall be expended for the equipment and maintenance of the legislative reference department hereby created by section 350 of the Revised Statutes of Ohio as supplemented herein, and for no other purpose.

SEC. 350. The board of library commissioners shall arrange for the exchange of the Ohio publications with as many of the states as possible, with the general government; and with other governments; with societies and others as they see fit, placing all exchanges received in the state library, except that all statutes received not already in the law library, are to be transferred to the law library.

SEC. 350a. The board of library commissioners are hereby authorized and directed to equip and maintain in the state capitol for the use and information of the members of the general assembly, and for the use of the several state departments, and such other citizens as may wish to consult the same, a working library, as complete as may be, of the several public documents of this and other states, including works bearing upon the history of legislation in the other states; and to purchase for said library standard works of use and reference. The board of library commissioners shall co-operate, so far as possible, with the historical societies and libraries of this and other states, with a view to a joint arrangement by which the needs of the general assembly in the matter of general and special books of reference may be filled to the fullest possible extent. And the said board of library commissioners shall give such space in the said capitol to books and documents brought to the capitol from historical societies and libraries, for such purpose, as may be jointly agreed upon between them. The board of library

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\* This bill passed the House and is still pending in the Senate.

commissioners is hereby authorized and directed to make the necessary explanatory check list and card indexes of the several publications and documents, including all reports, circulars, bulletins and the bills of other states, whether proposed or enacted into law; and to publish this list and supplementary lists, as may be necessary, in such form and with such notes as to make plain the scope and purpose of such publications; and to assist the members of the general assembly, state officers and other citizens who are studying the growth and development of the affairs, institutions and legislation of this state.

#### LIBRARY BUILDING.

SENATE BILL No. 195, BY MR. CRIST.

To provide for acquiring, by gift or purchase, a suitable site upon which to erect a state building for the use of the state library and the state archaeological and historical society.

WHEREAS, The quarters now occupied by the state library are entirely inadequate to its needs present and prospective; and,

WHEREAS, The museum and library of the state archaeological and historical society occupy temporarily rooms in buildings of the Ohio state university that are unsuited for these collections and much needed for other purposes; and,

WHEREAS, The rooms now occupied by the state library are needed for the senate and state officers; therefor,

SECTION 1. *Be it enacted by the General Assembly of the state of Ohio.* That there is hereby constituted a board to be known as the state building commission, to be composed of the governor and attorney general, ex-officio, and three citizens of the state, one to be chosen by the board of library commissioners and to be one of said commissioners or the state librarian, one to be chosen by the state archaeological and historical society from its membership, and one to be appointed by the governor, within thirty days after the passage of this act. Said state building commission shall have authority to select and acquire a site suitable for the erection of a state building which shall be of sufficient dimensions to furnish accommodations for the state library and the museum and library of the state archaeological and historical society.

SECTION 2. Said commission is hereby vested with full authority to select a site for such building and to acquire title thereto, by gift or purchase, in the name of the state of Ohio; provided, however, that if such commission should be unable to acquire a suitable site by gift or at a price deemed by it reasonable and proper, it is hereby vested with power and authority to erect the building, hereinafter provided for, upon the state house grounds, at the corner of Broad and Third streets, or at the corner of State and Third streets, or upon the grounds of the



Ohio state university, at some place mutually agreed upon by said commission and the trustees of the Ohio state university.

SECTION 3. Forthwith upon the acquisition of the title to such site or the location of said building upon the state house grounds or the grounds of the Ohio state university, said commission shall publicly request the presentation, within a reasonable time thereafter, to be designated in such request, of competitive plans and specifications with accompanying estimates for such building or alternate designs as said commission may determine upon. And said commission shall thereupon select from the plans presented the one by them deemed the most suitable and appropriate, and which shall comply with the terms of this act, and shall employ either the architect whose plan is selected, or some other competent architect to furnish specifications and complete working plans for said building. And said commission may, in requesting the presentation of such plans, offer a prize or prizes, not to exceed five in number, for the most suitable plans presented, to be by said commission awarded, and said commission is authorized to spend not more than one thousand dollars (\$1,000) for such purpose.

SECTION 4. Upon the completion of such specifications and working plans said commission shall have general charge and control of the contracting, construction and erection of said building, but they shall be governed and controlled by chapter 1, title 6, of the Revised Statutes of Ohio, relating to public buildings, so far as applicable. Said commission shall exercise general control and supervision of the erection of said building, and shall have power to employ a competent superintendent of construction to superintend the same and employ such other assistants as may be necessary. And said commission shall, as far as practicable in the construction of such building, employ Ohio labor and use material native to this state. Such building shall be completed within two years from the time suitable land is acquired or from the time that said commission finds itself unable to acquire suitable land and decides to locate said building on the state house grounds or the Ohio state university grounds.

SECTION 5. Said commission shall elect one of their number as chairman, and shall have power to employ a clerk, who, in addition to such other duties as may be assigned to him by said commission, shall keep full and accurate minutes of the proceedings of said commission, including copies of all contracts, plans and specifications, which shall at all times be open to public inspection. Said commission is also fully empowered to fix the compensation of said clerk, and of said superintendent of construction and other assistants, and to determine the sums to be paid to architects who submit plans for said building. The member of said commission appointed by the governor shall receive compensation for his services under this act for a period of not to exceed two and

one-half years from the passage of this act, of one thousand dollars (\$1,000) per annum, and shall receive no other compensation, but all the expenses of the commission for books, stationery, and other supplies, shall be paid out of the treasury of the state on the warrant of the auditor of the state, to be issued upon a requisition of said commission.

SECTION 6. The majority of said members shall be competent to exercise any authority which this act vests in said commission, including the making of any and all contracts.

SECTION 7. If any officer above designated shall retire from office before the completion of said building, his successor in office shall be his successor as a member of said commission, or if the member appointed, or any member elected shall retire from the commission, the authority by which he was appointed or elected shall name his successor in the manner provided in Section 1 of this act.

SECTION 8. For the purpose of carrying out the provisions of this act, the sum of two hundred thousand dollars (\$200,000) is hereby appropriated out of any money in the state treasury to the credit of the general revenue fund, not otherwise appropriated. And the further sum of two hundred thousand dollars (\$200,000) is hereby appropriated out of any money in the state treasury to the credit of the general revenue fund, not otherwise appropriated, subject to draft on and after February 15, 1907. Said appropriations shall be paid out on warrants issued by the auditor of the state, upon requisitions and estimates signed by the authority of the state building commission. Provided that said commissioner shall not accept any plan or enter into any contract or contracts that will contemplate or provide for a total expenditure of an amount in excess of four hundred thousand dollars (\$400,000) for the purposes covered by this act. And further provided, that said building, when finally completed, equipped, and ready for occupancy, shall not cost an amount in excess of said sum of four hundred thousand dollars (\$400,000).

SECTION 9. This act shall take effect and be in force from and after its passage.

#### EDITORIAL COMMENT ON SENATE BILL NO. 195, PROVIDING FOR NEW LIBRARY BUILDING.

##### THE STATE LIBRARY.

Comparatively few Ohioans know that their State has a library which is already valuable and fast increasing in size and importance. Ten years ago the library belonging to the State and housed in upper rooms of the Capitol had only 47,115 volumes. Now the number is 105,287. The gain of 58,000 volumes in a decade shows what may be expected in the future. Before many years the State of Ohio will own one of the great libraries of America.

This important collection of books is crowded into rooms which were not intended for such use. It is pressing hard upon the limits of the space assigned



for library purposes. The need of a new building, designed expressly for a library, is becoming urgent.

A bill has been drawn by Senator Crist to meet the needs of the State library. It provides that \$400,000 shall be appropriated to erect a suitable library building, the total cost of which is not to exceed that sum. The edifice is also to accommodate the museum and library of the Ohio Archaeological and Historical Society. A site is to be selected either facing the State House, on land to be acquired for that purpose, or on a corner of the Capitol grounds, or else on the ample but somewhat remote premises of the Ohio State University.

This bill ought to pass. The State library has a traveling department which reaches all parts of Ohio. Its work is of value to every county in the State, and its importance steadily increases. The collection of the historical society is of increasing interest and value, and it ought to be well housed. It possesses much material of great importance to students of Ohio history.

No great State can make a mistake by providing generously for a State library.

*Cleveland Leader*, March 22, 1906.

#### A STATE LIBRARY BUILDING IN COLUMBUS.

It is to be hoped that the legislature will find or take time to give careful and favorable consideration to the plan to erect in Columbus a suitable building for the large and growing state library. The collection, which is now housed in quarters that are not only inadequate but also urgently needed for other purposes, already comprises 105,000 volumes and is growing at a rate which makes it certain that before long books will cease to be accessible and the library thus be made little better than useless. The state also has a large collection of flags and relics which would find their proper place in a new library building, while the State Historical and Archaeological society occupies rooms in one of the State university buildings, which are already far too small and are needed, moreover, by the university.

It is proposed in a bill now pending to have all these collections housed in a new and suitable state library building that would provide for all present and prospective necessities. The plan is to authorize the appointment of a state library commission, with clearly defined and strictly limited powers, with authority to acquire a site by gift or at a fair price, and to erect the building provided for in the bill within two years after a satisfactory site has been obtained and at a maximum cost of \$400,000.

In the matter of securing a site the state is fortunately situated, inasmuch as there is no possibility of being "held up" by real estate operators; for it already owns two sites, either one of which would admirably serve the purpose. If a location near the state house on land now in private hands could not be secured at a fair price the structure could be erected in the ample grounds of the state house itself, though the building and its contents would soon be damaged through being exposed to the city's soot and dust. Again, a site could easily be obtained on the grounds of the State university, this requiring only the consent of the university trustees, which should be readily obtained since the library building would add to the beauty and dignity of the university grounds, to say nothing of its educational value. This site would be more remote but have many and obvious compensating advantages.

At all events a state library will have to be erected before long and now is the accepted time for initiating the movement. The necessity is apparent and the financial condition of the state would seem to warrant an early and businesslike start. The legislature knows the need and the people will not grudge the money.

*Cleveland Plain Dealer*, March 26, 1906.



# LIBRARY LAWS OF OHIO.

With Latest Amendments.

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## FORMS AND SUGGESTIONS.

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### STATE LIBRARY.

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(76—1) **Sec. 1. [State publications to be furnished library commissioners by supervisor of public printing.]** The supervisor of public printing is hereby authorized and directed to deliver to the board of library commissioners any number of copies, not exceeding two hundred, of every report ordered printed by the governor or the general assembly, and of all bulletins, pamphlets and other documents that may be printed by or for any department, board or officer. These copies are to be printed in addition to those provided by law for the departments themselves, or for the general assembly, except that the two hundred copies of the laws, senate journal, house journal and executive documents shall be taken from the number now printed. (93 v. 308.)

(76—2) **Sec. 2. [State publications to be furnished library commissioners when printed by other officers.]** When any printing is done, wholly or in part by the state, under direction of an officer or officers other than the supervisor of public printing, a number of copies, not exceeding two hundred, of each report, pamphlet, bulletin or other publication so printed, shall be delivered to the board of library commissioners by the officer under whose direction the printing is done. (93 v. 308.)

(76—3) **Sec. 3. [When board to notify supervisor of number required.]** When fewer than two hundred copies of the publications named in sections one and two of this act are desired, the board of library commissioners shall notify the supervisor of public printing or other proper officer, who shall deliver the number required. (93 v. 308.)

(76—4) **Sec. 4. [Publications subject to requisition of library commissioners.]** Any reports or other publications remaining undistributed in the custody of the secretary of state one year after publication,

shall be subject to requisition by the board of library commissioners, to be distributed in accordance with sections 350 and 351 of the Revised Statutes, as amended April 22, 1896, (O. L., 92 v. 291.) (93 v. 308.)

**Sec. 342. [Board of library commissioners; appointment; term; vacancies; non-compensation.]** The governor with the advice and consent of the senate shall appoint three persons, residents of the state, who shall constitute a board of library commissioners. One member of said board shall be appointed for two years, one for four years and one for six years; and thereafter the term of office shall be six years. All vacancies on said board to be filled by the governor, by and with the advice and consent of the senate. The members of the board shall receive no compensation for their services. (92 v. 291; 51 v. 320, sections 1, 2, 3; S. & C. 830.)

**Sec. 343. [Annual expenses of board.]** The board may expend a sum not exceeding one thousand dollars annually, for clerical assistance and incidental and necessary expenses, including traveling expenses in the discharge of its duties; and all sums expended under the provisions of this act shall be paid by the state treasurer on the warrant of the auditor of state, after the bills therefor have been approved by the board. (92 v. 291.)

**Sec. 344. [Powers of board; appointment and removal of librarian and assistants; rules.]** The board of library commissioners shall have the management of the state library, appoint and remove the librarian, with the consent of the governor, and said library commissioners, with the consent of the librarian, shall appoint the assistants in the library during their pleasure. Make such rules for the government of the library and the use of the books and other property of the library as they may deem necessary. (92 v. 291; 51 v. 320, sec. 2; S. & C. 831.)

**Sec. 345. [Bonds of librarian and assistants.]** The librarian shall give bond to the state in the sum of ten thousand dollars, with sureties approved by the board of library commissioners, for the faithful discharge of his duties and deliver over to his successor of all the property of the state in his possession. The assistants in the library shall be required to give bond to the state in the sum of one thousand dollars. These bonds shall be deposited with the treasurer of state. (92 v. 291; 51 v. 320, sec. 3; S. & C. 831.)

**Sec. 346. [Librarian secretary of board.]** The librarian shall be secretary of the board of library commissions and shall perform all the duties belonging to that position. (92 v. 291.)



**Sec. 347. [Duties of librarian.]** The librarian shall have charge of the state library, giving his personal attention and attendance to it and carrying out and enforcing the rules and regulations made therefor by the general assembly and the board of library commissioners. (92 v. 291; 51 v. 320, sec. 6; S. & C. 831.)

**Sec. 348. [Commissioners may give advice as to organization and maintenance of free public library.]** The librarian or trustees of any free public library may ask said board of library commissioners for advice as to all matters pertaining to the organization, maintenance or administration of the library; and the board shall give such advice and personal attention as it shall find practicable; (92 v. 291.)

**[Library organizer; appointment and duties.]** and it may appoint a library organizer with office room in the state library, one of whose duties it shall be to furnish such advice and information; such library organizer shall keep informed of the condition, scope and methods of work of the various public libraries in the state, visiting the same as occasion may require, shall assist, as far as practicable, in promoting and starting new libraries, and at the end of each fiscal year shall make a report of the general library conditions in the state to the library commission. (98 v. 194.)

**Sec. 349. [Documents to be delivered to board; style of binding.]** The supervisor of public printing shall deliver to the board of library commissioners as many copies of each report and other documents as may be provided by law. These copies are to be bound in the best style of binding that may be ordered by the state in each case. (92 v. 291.)

**Sec. 350. [Exchange of publications; statutes.]** The board of library commissioners shall arrange for the exchange of the Ohio publications with as many of the states as possible, with the general government, and with other governments, with societies and others as they see fit, placing all exchanges received in the state library, except that all statutes received, not already in the law library, are to be transferred to the law library. (92 v. 291; 51 v. 320, sec. 9; S. & S. 832.)

**Sec. 351. [Distribution of state publications.]** The board of library commissioners may send to any university, college, public society or individual copies of state publications, at their discretion. (92 v. 291.)

**Sec. 352. [Expenditures of appropriations.]** The board of library commissioners shall superintend and direct all expenditures of appropriations made for the library. (92 v. 291.)



**Sec. 353. [Annual report of board.]** The board of library commissioners shall annually make a report to the governor of all receipts and expenditures and of the condition of the library, and all other matters in relation thereto that they deem expedient for the information of the general assembly; and their report shall be transmitted, by the governor, to the general assembly. (92 v. 291; 51 v. 320, sec. 11; S. & C. 832.)

#### COUNTY LIBRARY.

**Sec. 891a. [County commissioners may receive bequests, etc., for construction or maintenance of county library.]** The county commissioners of any county may receive a bequest or gift of a building, or of money or property wherewith to construct a building for a county public library, or to furnish and equip such library; may accept the gift of a library, or of its use either for a term of years or permanently; and may enter into an agreement on behalf of the county to provide and maintain such library.

**[May enter into agreement with library association for use of library by people of county.]** Any library association, or other organization, either owning or having the full management and control of a library, and any board of trustees appointed by authority of law, and having the management and control of a library free to the public of the whole or a part of the county, may enter into an agreement with the county commissioners for the use of such library by the people of such county.

**[Tax for maintaining library.]** Any county accepting such bequest or gift, or entering into such agreement shall be bound to faithfully carry out the agreement so made to maintain and provide such library. The commissioners of any such county are hereby authorized at their June session each year to levy a tax of not exceeding a half mill on each dollar of taxable property of such county, and the fund derived from such levy shall constitute a special fund to be known as the library fund, and shall be used for no purpose other than is contemplated in this section. (93 v. 355; 98 v. 194.)

#### TOWNSHIP LIBRARY.

**Sec 1476. [Question of public library shall be submitted to electors.]** The trustees of any township, on the petition of twenty electors thereof, shall upon four weeks' public notice, published in some paper of general circulation in the county, submit to the electors of such township, at some general election in April or November, the question whether there shall be a public library established in such township for the use and benefit of the citizens thereof, and those voting at such election in

favor of such library, shall put upon their ballots the words "Public library — Yes," and those voting thereat against such library, the words, "Public library — No;" and if a majority of the electors voting at such election vote in favor thereof, the trustees aforesaid have authority, annually, to levy upon all the taxable property of such township a tax not exceeding one mill, on the dollar valuation thereof, to be applied to the establishment and maintenance of a library as aforesaid, and the procuring of a suitable room or rooms for the same. (70 v. 244, sec. 1; 95 v. 506; 97 v. 189.)

**Sec. 1477. [Trustees of library; appointment of.]** The trustees shall appoint three trustees of said library, and confer upon them such authority as may be necessary to render any library so established of public utility; and said library shall be conducted and cared for under such rules and regulations as such library trustees prescribe. 70 v. 244, Sec. 2.

**Sec. 1478. [Transfer of books of school libraries to township library.]** The library trustees have authority, by and with the consent of the local boards of education, or other school officers having the same in charge, to receive and place in said library, the books of the school library, subject at all times to the call of said boards of education or other school officers. 70 v. 244, Sec. 3.

(1478-1) **Sec. 1. [Township trustees authorized to levy tax to compensate private company or association for maintaining free public library.]** That the trustees of each township shall have power to levy and collect a tax not exceeding one-half mill on each dollar of the taxable property of the township, annually, and to pay the same to a private corporation or association maintaining and furnishing a free public library for the benefit of the inhabitants of the township as and for compensation for the use and maintenance of the same, and without change or interference in the organization of such corporation or association, requiring the treasurer of such corporation or association to make an annual financial report, setting forth all the money and property which has come into its hands during the preceding year, and its disposition of the same, together with any recommendation as to its future necessities.

(1478-2) **Sec. 2. [County auditor shall certify to township clerk amount collected for library purposes; clerk's duty.]** That the county auditor at each semiannual collection of taxes, where a tax for library purposes has been levied by the township trustees shall certify the amount collected from said levy for library purposes to the township clerk; and the township clerk shall forthwith draw his warrant on the township treasurer, payable to the treasurer of the library association for the amount so certified by the auditor.



(1478-3) **Sec. 3.** [Disposition of library property when library ceases to provide free public library.] That if at any time such library corporation or association ceases to exist or from any reason fails to provide a free public library as required by the provisions of this act, the books and other property accumulated from the proceeds of the levy herein authorized shall become the property of the township and be subject to the control of the trustees of the township, 98 v. 47.

## CITIES AND VILLAGES.

### MUNICIPAL CODE — PROVISIONS RELATIVE TO PUBLIC LIBRARIES.

#### GENERAL POWERS OF MUNICIPALITIES.

(1536-100) **Sec. 7.** \* \* \* All municipal corporations shall have the following general powers and council may provide by ordinance or resolution for the exercise and enforcement of the same:  
\* \* \*

(7-22.) To establish, maintain and regulate free public libraries and reading rooms, and to purchase books, papers, maps and manuscripts therefor, and to receive donations and bequests of money or property for the same, in trust or otherwise, and to provide for the rent and compensation for the use of any existing free public libraries established and managed by a private corporation or association organized for that purpose.

#### APPROPRIATION AND TRANSFER OF PROPERTY.

(1536-103) **Sec. 10.** All municipal corporations shall have power to appropriate, enter upon and hold, real estate within their corporate limits, for the following purposes: \* \* \*

**Sec. (10-8).** For libraries, university sites and grounds for the same.

(1536-124a) **Sec. 1.** [Transfer of property to library trustees.] That it shall be lawful for any municipal corporation in this State to transfer by ordinance duly passed, any property, real or personal, acquired or suitable for library purposes, to the trustees of any public library for the school district within which such municipal corporation is situate, upon such lawful terms and conditions as may be agreed to between said municipal corporation and said trustees.

(1536-124b) **Sec. 2.** [Trustees empowered to accept same.] The trustees of any public library in any such school district are hereby authorized and empowered to receive and accept any such transfer, and



to receive and accept from any other source or acquire in any other manner, any property, real or personal, for library purposes, and use and apply the same for such purposes, and to enter into any contract relating thereto.

#### TAXATION.

(1536-193) **Sec. 33.** The aggregate of all taxes levied by any municipal corporation exclusive of the levy for county and state purposes, for schools and school house purposes, for free public libraries, and library buildings, for university and observatory purposes, for hospitals, and for sinking fund and interest, on each dollar of valuation of taxable property in the corporation on the tax list, shall not exceed in any one year ten mills.

#### ADMINISTRATION, MAINTENANCE AND SUPPORT.

(1536-934) **Sec. 218.** [Trustees; duties; quorum.] The custody, control and administration, together with the erection and equipment, of free public libraries established by municipal corporations, shall be vested in six trustees, not more than three of whom shall belong to the same political party, who shall be appointed by the mayor to serve without compensation for a term of four years and until their successors are appointed and qualified; provided, however, that in the first instance three of such trustees shall be appointed for a term of two years, and three thereof for a term of four years, and all vacancies shall be filled by like appointment for the unexpired term. Said trustees shall employ the librarians and necessary assistants, fix their compensation, adopt the necessary by-laws and regulations for the protection and government of the libraries and all property belonging thereto, and exercise all the powers and duties connected with and incident to the government, operation and maintenance thereof. It shall require four of said trustees to constitute a quorum and four votes to pass any measure or authorize any act, which votes shall be taken by the yeas and nays and entered on the record of proceedings of said trustees, and in the making of contracts said trustees shall be governed by the provisions of law applicable thereto.

[Women may serve as trustees.] Every woman born or naturalized in the United States, of the age of twenty-one (21) years and upward, who shall have been a resident of the state at least one year, and of the city or village in which any such library may be established, for the period of thirty days, shall be qualified to be appointed and serve as such trustee.

[Council may provide for use and maintenance of library tax; report.] The council of each city shall have power to levy and col-

lect a tax not exceeding one mill on each dollar of the taxable property of the municipality, annually, and to pay the same to a private corporation or association maintaining and furnishing a free public library for the benefit of the inhabitants of the municipality as and for compensation for the use and maintenance of the same, and without charge or interference in the organization of such corporation or association, requiring the treasurer of such corporation or association to make an annual financial report, setting forth all the money and property which has come into his hands during the preceding year, and its disposition of the same, together with any recommendation as to its future necessities. (96 v. 20; 97 v. —.)

#### LIBRARY BONDS.

(1536-934*b*) **Sec. 1. [Library board authorized to issue and sell bonds to provide for and furnish library buildings.]** Any public library board charged by law with the title, custody, control and maintenance of a public library in the state of Ohio may issue bonds, with interest coupons attached, to provide buildings for the public library in their charge, and to furnish the same, and to pay the cost and expense thereof, and in anticipation of income from taxes for such purposes levied or to be levied may, from time to time as occasion requires, or at any time after the passage of this bill, issue and sell bonds, bearing interest payable semiannually at a rate specified therein not exceeding five per cent. (5%) per annum, and in such sums and at such times as the library board may determine, which bonds shall be numbered consecutively, made payable to the bearer, and be signed by the president and secretary of the board and denominated "public library bonds of the ..... library" (naming the one to provide and furnish buildings for which they are issued), and the secretary of said board shall keep a record of the number, date, amount, and rate of interest on each bond sold, the sum for which and the name of the person to whom sold, and the time when payable, which record shall be open to the inspection of the public at all reasonable times, and the bonds so issued shall in no case be sold for a less sum than the par value, nor bear interest until the purchase money for the same shall have been paid by the purchaser, and such library board shall pay such bonds and the interest thereon when due, provided that the total issue of such bonds shall not exceed three and one-half ( $3\frac{1}{2}$ ) mills on the dollar of the tax duplicate of the district upon which taxes are levied for the support of the said public library.

(1536-934*c*) **Sec. 2. [Order for issues of bonds to be made at regular meeting.]** The order to issue such bonds shall be made only at a regular meeting of such board and by a vote of two-thirds of all the members thereof, taken by yeas and nays and entered on the journal of the board, and such bonds shall be sold to the highest bidder after



being advertised once a week for four (4) consecutive weeks in a newspaper having a general circulation in the county where such bonds are issued, and if there shall be more than one newspaper in such county having a general circulation in the county where such bonds are issued, then the sale of such bonds shall be advertised in at least one additional newspaper of such general circulation in such county.

[**Advertisement of sale of bonds; what to state.**] The advertisement shall state the total number of bonds to be sold, the amount of each, how long they are to run, the rate of interest to be paid thereon, whether annually or semiannually, the law or section of law authorizing their issue, the day, hour and place in the county where they are to be sold, and the privilege shall be reserved by such board to reject all or any bids, and if said bids are rejected said bonds shall be readvertised and the moneys arising on premiums of the sale of said bonds as well as the principal shall be credited to said fund on account of which the bonds are issued and sold, and shall be used for the purpose provided in this section.

[**Question of bond issue must be submitted to vote.**] Provided, however, that no order for the issue of bonds under the provisions of this act, shall become operative until the question of such issue shall have been submitted to the qualified electors of the district maintaining such library, at a general or special election, and until the same shall have been approved by a majority of the [voters] voting thereon at such election.

(1536-934*d*) **Sec. 3. [Tax levy for payment of bonds.]** For the purpose of creating a sinking fund for the extinguishment of the bonds provided for in the preceding section, said library board may annually, until the payment of the bonds are fully provided for, levy and collect a tax in addition to other taxes now authorized to be levied by it, which shall not exceed two and one-half tenths (.25) of one mill upon the taxable property of the tax district taxed for the support of said library, which tax shall be paid into what treasury is the treasury of said board, and an order of the public officer charged by law with the duty of drawing warrants upon such treasury paid over to the sinking fund hereinafter provided for, and by them applied, by order of the library board, to the extinguishment of the bonds in the preceding section provided, and to no other purpose whatever; and the taxes so levied shall be certified and placed on the tax list and collected in the same manner as other taxes of said taxing district, and such tax shall be a lien upon the property whereon they are assessed, the same as state and county taxes, and subject to the same penalties if delinquent.

(1536-934*e*) **Sec. 4. [“Trustees of the library sinking fund;” appointment, etc., of members of board.]** If in said taxing district



there is already a board of trustees of a sinking fund for said library, such board shall act under this act; but if there is not now such a board, there shall be a board designated as "the trustees of the library sinking fund of said taxing district" composed of three (3) citizens thereof to be appointed by the court of common pleas in the county in which said public library is situated. The first appointment shall be one for the term of one year, one for the term of two years, and one for the term of three years, and all trustees appointed thereafter shall serve for three years, except in case of vacancy, which shall be filled by said court for the unexpired term.

[**Bond.**] And before any money shall be paid to such board under this act, if such board already exists, and before any person appointed as a member of such board hereafter coming into existence shall assume the duties of his office, each member of said board shall give bond to the state of Ohio in amount equal to two per cent. (2%) on the amount of the bonds issued by said board, with not less than two (2) sureties, to faithfully discharge his said duties.

(1536-934f) **Sec. 5. [Organization of board, etc.]** Such trustees immediately after appointment and qualification shall organize by appointing one of their number as president, and the officer charged by law with the drawing of warrants on such treasury shall act as secretary of said board of trustees, and the library board shall provide such trustees with a place of meeting, and regular meetings of such trustees shall be held on the second Monday of January and July of each year, but other meetings may be called by the president or any member of the board. Their proceedings shall be recorded in a journal kept for that purpose, which shall at all times be open to the inspection of the library board or any member thereof, and all questions relating to the purchase or sale of securities, payment of bonds or interest, shall be decided by a viva voce vote with the name of each member voting recorded on the journal, and no question shall be decided unless approved by a majority of the whole board.

(1536-934g) **Sec. 6. [Board shall certify to library trustees rate of tax necessary to be levied.]** The trustees of such sinking fund shall in the month of May in each year, and oftener if required, certify to the library board the rate of tax, not exceeding the limit herein provided, necessary to provide a sinking fund for the payment of the bonds issued by authority of this bill, together with the amount necessary to be levied to provide for the payment of the interest thereon, and the library board shall levy the amount so certified as under this bill provided, and for the full amount so certified, but said library board may

increase the amount so reported, provided the total amount so levied does not exceed the limitation provided in this bill.

(1536-934<sup>h</sup>) **Sec. 7. [Investment of sinking fund.]** The trustees of such sinking fund shall invest the sinking fund in bonds of the United States, of the state of Ohio, of any municipal corporation, county, township or school district of any state or in bonds of its own issue. All interest received from such investment shall be deposited as other funds of said sinking fund, and reinvested in a like manner. For the extinguishment of any bonded indebtedness included in said sinking fund, the board of trustees of the sinking fund is authorized to sell or use any of the securities or money of said fund.

#### FARM LABORERS' ASSOCIATION.

**Sec. 3848. [May maintain libraries, etc.]** All such incorporated associations may keep and maintain libraries, and a museum of art consisting of models of such improved instruments and machinery as are best calculated to promote the interests of agriculture, for the benefit of such association, under such rules and regulations as its members from time to time adopt, and may make all needful by-laws for the good government and regulation of the same. (74 v. 204, sec. 11.)

#### SCHOOL DISTRICT LIBRARIES.

(3998-1) **Sec. 1. [Boards of education authorized to provide for establishment, etc., of public library; taxation.]** The board of education of any city, village, township, or special school district, may, by resolution provide for the establishment, control and maintenance, in such school district, of a public library, free to all the inhabitants of such district; and, for that purpose, may acquire, by purchase, the necessary real property, and erect thereon a library building; it may acquire from any other library association, by purchase, or otherwise, its library property; it may receive donations and bequests of money or property for such library purposes, and it may maintain and support libraries now in existence and controlled by the board of education; and such board of education may annually make a levy upon the taxable property of such school district, in addition to all other taxes allowed by law, of not to exceed one mill for a library fund to be expended by such board of education, for the establishment, support and maintenance of such public library; provided, that whenever any donation or bequest of money or property has been or shall hereafter be made to any two or more school districts jointly, or jointly and severally for the purpose of establishing and maintaining such public library, and the money so donated has been or may hereafter be expended in the purchase of a site and the erection of a library building thereon,



the provisions of this act shall apply; and provided in such case the board of education of each of said districts may annually make a levy of not exceeding one mill in addition to all other taxes allowed by law, upon the taxable property of such school districts for the establishment, support and maintenance of such public library, and the library building may be located at a convenient place in either of such school districts. The control of such building and library and the expenditure of all moneys for the purchase of books and other purposes and the administration of such library shall be vested in a board of six trustees, three to be appointed by each of said boards of education for the term of five years, and who shall serve without compensation, and such trustees shall serve until their successors are appointed. In case of vacancy in said board, from refusal to serve, resignation or otherwise, said vacancy shall be filled by the said boards of education of said district, in case such vacancy occurs, for the unexpired term. (98 v. 244; 96 v. 8.)

State library commissioners to give advice and attention to free public library officers; see Sec. 348.

(3998-2) **Sec. 2. [Board of library trustees; how constituted; qualifications; terms; vacancies; compensation; powers.]** The board of education may provide for the management and control of such library by a board of trustees to be elected by said board of education as herein provided. Such board of library trustees shall consist of seven members, who shall be residents of the school district, and no one shall be eligible to membership on said library board who is or has been for a year previous to his election, a member or officer of the board of education. The term of office shall be seven years, except that at the first election the terms shall be such that one member shall retire each year. Should a vacancy occur in said board, it shall be filled by the board of education for the unexpired term. The members of said library board shall serve without compensation and until their successors are elected and qualified. Such library board in its own name shall hold the title to and have the custody, management and control of all libraries, branches, stations, reading rooms, and of all library property, real and personal, of such school district, and the expenditure of all moneys collected or received from any source for library purposes for such district. It shall have power to employ a librarian and assistants, but previous to such employment the compensation of such librarian and assistants shall be fixed. Such library board shall have the power, by a two-thirds vote of its members, to purchase or lease grounds and buildings, and erect buildings for library purposes. It may accept any gift, devise or bequest for the benefit of such library. No member of the library board shall be interested, directly or



indirectly, in any contract made by the board. The library board shall report annually in writing to the board of education. (96 v. 8.)

(3998-3) **Sec. 3. [When library to be under control of such board.]** Whenever in any city, village or special school district a library established or controlled by a board of education shall contain twenty-five thousand or more volumes, it shall be managed, governed and controlled by a board of trustees elected by the board of education as provided in section 2 of this act. (96 v. 9.)

(3998-4) **Sec. 4. [Library fund; how provided and maintained; payments from.]** Said board of library trustees shall annually, during the month of May, certify to the board of education the amount of money that will be needed for increasing, maintaining and operating said library during the ensuing year in addition to the funds available therefor from other sources; and such board of education shall annually levy on each dollar of taxable property within said school district, in addition to other levies authorized by law, such assessment not exceeding one mill, as shall be necessary to realize the sum so certified, the same to be placed on the tax duplicate and collected as other taxes. The proceeds of the said tax shall constitute a fund to be known and designated as the library fund: Payments therefrom shall only be made upon the warrant of the board of trustees of the library, signed by the president and secretary thereof. (96 v. 9.)

(3998-5) **Sec. 5. [Board of education may contract with library association for use of library.]** The board of education in any city, village or special school district shall have power to contract annually with any library corporation or other organization owning and maintaining a library, for the use of such library by the residents of such district, and it shall have power to levy annually a tax not exceeding one mill on the taxable property of such district to pay for the same; and such board of education shall require an annual report in writing from such library corporation or other organization. (96 v. 9.)

(3998-6) **Sec. 6. [School library.]** The board of education of any school district of the state, in which there is not a public library operated under public authority and free to all the residents of such district, may appropriate annually not to exceed two hundred and fifty dollars annually from the contingent fund for the purchase of books, other than school books, for the use and improvement of the teachers and pupils of such school district. The books so purchased shall constitute a school library, the control and management of which shall be vested in the board of education, which board shall have power to receive donations and bequests of money or property for such library. (96 v. 9.)

(3998-7) **Sec. 7. [Museum.]** The board of education of any school district, or any board of trustees managing and controlling a library in any school district, may found and maintain a museum in connection with and as an adjunct to such library, and for such purposes may receive bequests and donations of money or other property. (96 v. 9.)

(3998-8) **Sec. 8. [Taking effect; existing laws.]** This act shall take effect and be in force on and after November 15, 1902, and all acts or parts of acts not inconsistent herewith under which existing libraries are maintained, governed and controlled, shall be and remain in full force and effect. (96 v. 10.)

(3998-9) **Sec. 1. [City board of education may acquire private library; shall be made a public library; board of managers; vacancies in board.]** That whenever in any city organized under chapter 4, division 2, of title 12, of the Revised Statutes of Ohio, there is a library owned by a private incorporated or unincorporated association which the owners, or managers thereof, are willing to dispose of and to transfer to the board of education of such city or school district within which said city is situate, the said board of education is hereby authorized to acquire from said association by purchase, or otherwise, said library and the property used by said association for library purposes. Upon acquiring title to said library and property, the said board of education shall declare the same to be a public library, and shall erect a board of managers therefor, consisting of six persons, two of whom, at the first election shall be elected for a period of three years, two for a period of two years, and two for a period of one year, and thereafter, upon the expiration of said terms, and all succeeding terms, said managers shall be elected for three years. And said board of education shall fill vacancies in said board of managers for unexpired terms in like manner, and said board of managers shall at all times be amenable to and under the control of said board of education as to tenure of office and authority and shall serve without compensation. The president of said board of education shall be ex-officio a member of said board of managers, but otherwise, no member of said board of education shall be a member of said library board. (95 v. 74.)

(3998-10) **Sec. 2. [Powers and duties of managers.]** Said board of managers shall have the care, custody, control and management of said library and property, under such rules and regulations as they shall prescribe and shall have the power to receive donations of land, money and other things of value, and to hold, dispose of, or use the same for the benefit of such library. The use of said library shall be free to all.



residents of said city and territory thereto attached for school purposes. Said board shall have the power to lease or rent suitable place for the use of said library and establish a reading room or rooms in connection therewith. (95 v. 74.)

(3998-11) **Sec. 3. [Organization of board; librarian and assistants.]** Said board of managers shall elect from their number a president, vice-president, and secretary, and shall appoint a librarian and such assistants and employes as may be necessary for the proper conduct of said library. The term of office of said appointees shall be at the pleasure of the board, but shall not exceed three years. (95 v. 74.)

(3998-12) **Sec. 4. [Tax levy; expenditure of funds.]** For the purpose of paying for such library purchased and of maintaining and increasing said library and reading rooms, the said board of education may levy upon the general tax duplicate of the school district within which such city is situate, a tax not to exceed six-tenths of one mill on each dollar of valuation of the taxable property of said school district which shall be levied, assessed and collected as other taxes levied by said board and shall be in addition thereto. The proceeds of said tax when collected, shall constitute and be called the library fund, and shall be paid to the treasurer of the school district, who shall disburse same only upon warrant of said board of managers, signed by the president and secretary thereof. Said board of managers shall expend said fund in the purchase of books, pamphlets, papers, magazines, periodicals, journals, furniture, and such other property as may be necessary for such library and reading rooms and in payment of all proper charges for maintenance including the compensation of the librarian and other employes of said board. No part of said fund shall be transferred or used for any other purpose than as provided in this section. All money heretofore appropriated, received, or collected by tax levied for public library purposes in said city, or school district, and remaining unexpended shall be transferred to said library fund, and be expended by said board of managers in accordance with the provisions of this act. (95 v. 74.)

**Sec. 6878. [Destroying and defacing newspapers, etc., belonging to libraries.]** Whoever intentionally defaces, obliterates, tears or destroys, in whole or in part, any newspaper, magazine, or periodical, on file in any reading-room belonging to another person, or cuts therefrom any article or advertisement, shall be fined not more than one hundred nor less than ten dollars, or imprisoned not more than thirty days, or both. 63 v. 8, Sec. 1; S. & S. 285.



## NOTES ON PRECEDING LAWS.

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The preceding laws were drawn to meet the requirements of recent decisions of the Supreme Court. They are general in application and liberal in character. They make a free public library possible in every community of the State. As they repeal conflicting laws previously enacted, it will be safest to organize libraries in accordance with their provisions.

### ASSISTANCE FROM THE STATE LIBRARY.

The State Library Act of 1896, under which the library commission operates, provides, amongst other things, that "the librarian or trustees of any free public library may ask said board of library commissioners for advice as to all matters pertaining to the organization, maintenance or administration of the library; and the board shall give such advice and personal attention as it shall find practicable." It will be at all times the pleasure of the commissioners, as it is their duty, to comply with the letter and spirit of this section of the law. Correspondence is invited with those interested in the establishment and maintenance of public libraries. Within the limit of their power to serve, the commissioners will be more than pleased to assist in the work of library extension throughout the State.

The law authorizes the State Library to distribute state publications. A valuable check list of these was compiled by Mr. R. P. Hayes in 1897. Requests for this and all other State publications should be directed to the State Librarian.

Within the past year, 1,106 traveling libraries, aggregating 40,007 volumes, were issued. The system has steadily grown in popularity and usefulness. Those desiring full information in regard to it should write to the State Library, Traveling Library Department, Columbus, Ohio.

### LIBRARY ORGANIZATION UNDER BOARD OF EDUCATION.

Sections 1, 2, 3, and 4, (3998-1), (3998-4), of the act authorizing certain boards of education "to provide library privileges" are self explanatory.

Section 5 gives boards of education the power to contract for the use of a library, which may be located in the city, village or special school district, or outside of it. A report must be made in writing each year to the board of education. The board has no authority over the membership or management of the library organization. This section will not only protect libraries that were operating under a similar provision previous to its enactment, but also, it is believed, encourage private and subscription libraries to open to the public in return for the tax levy now authorized.

Section 6 is designed to take the place of a law enacted at the regular session of the Seventy-fifth General Assembly. It makes possible the establishment and maintenance of a library in any school district of the State. It applies not only to city, village and special districts in which there is not a public library, but to township districts as well. Under it the control and management of the library is vested in the board of education, which board may use any agency, including the traveling library system, for the distribution of books.

## LIBRARY ORGANIZATION UNDER MUNICIPAL CODE.

The authority of the city or village councils to establish, maintain and, through a non-partisan board of trustees, to provide for the administration of, public libraries is clearly set forth in Sections 7, 10, 33 and 218 of the new Municipal Code. It will be seen that a city council only has power to contract with a corporation or association for the free use of its library. This power cannot be exercised by a village council. The village school board, however, has such power under Section 5, (3998-5).

## HOW TO ESTABLISH A PUBLIC LIBRARY.

Under the comprehensive laws now in force a free public library is possible in every community in Ohio. These laws, however, are permissive in character. The citizens of a community must realize the need of a public library before one can be established. The local interest must be aroused. Often it will be best to establish a library in a modest way, by contributions of money and donations of books. Traveling libraries may also be borrowed from the State for this purpose. The books collected from any or all of these sources should be made to circulate as freely as possible, and the public should be encouraged to ask for more books. The material selected and the spirit manifested by those who have the work in charge will go far toward inspiring confidence and making the experiment a success. The expense need not be large. A small outlay of money, supplemented with earnest missionary work, will accomplish much. When the service is such as to win the appreciation of the public, it will be comparatively easy to proceed with the establishment of the library.

The local press may aid materially in this preparatory work. The attitude of newspaper men is naturally friendly to educational movements. If their support is solicited in the proper spirit, they will, as a rule, generously and effectively promote the movement. The support of the local newspaper is so important that it should be assured before the establishment of a public library is seriously undertaken.

"Enlist the support of teachers, and through them interest children and parents. Literary, art, social, and scientific societies, Chautauqua circles, local clubs of all kinds should be champions of the movement."\*

With a friendly interest assured, petitions addressed to the board of education or the city council should be drawn up and circulated throughout the district or municipality for signatures. These should be presented to all citizens. No class should be slighted. The committee appointed to solicit names should represent the various local interests. It is fair to presume that every citizen, when he becomes acquainted with the educational value of the free public library, will be friendly to the movement. Personal rivalries must be avoided. The work must be undertaken in a public spirit. It must be thoroughly understood that the good of the community is the aim and end of library extension.

When the petitions have been signed they should be submitted to the board of education or municipal council. If the preliminary work has been well done, success is practically assured. The body to whom the petitions are submitted will usually be very willing to act in accordance with the expressed wish of their constituents.

In some instances the preliminary steps here suggested may not be necessary. Where the local interest is already manifest a resolution may be intro-

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\*J. C. Dana in Library Primer.



duced in the board of education or municipal council by a member of either body, providing for the establishment of a free public library.

The work preparatory to the establishment of a library depends to some extent on local conditions. Those who have assumed this undertaking will know best how details are to be managed. When a start is once made the project should not be lightly abandoned. In many instances, everything will depend upon earnest, conscientious, long sustained effort. Spasms are to be avoided. This is a work in which perseverance is essential. Till public aid can be secured, a small library supported as already suggested is a great improvement over no library at all, and the most efficient means to cultivate sentiment in favor of a free public library.

In organizing a school library in township districts or districts in which there is not "a public library operated under public authority and free to all the residents of such district," it will often be sufficient to present a petition from the teachers of the board of education. If it is found necessary to arouse interest preparatory to this step, traveling libraries may be borrowed from the State Library and used through one winter to demonstrate the utility and practicability of the system.

The limit of money that may be appropriated annually in such districts is \$250.00. We will suppose that the township includes ten sub-districts. Evenly divided, this gives twenty-five dollars to each; a sum sufficient to purchase a case and twenty books suitable for use in the schools. The case purchased should be sufficiently large to accommodate at least thirty volumes. Books may be added in the year following to supplement these little collections, for convenience called traveling libraries.

It is understood that these books should be carefully selected with reference to the needs and capacities of the prospective readers, and there should be few, if any duplicates. At the opening of the schools a traveling library should be placed in each school room ready for use. At the end of two or three months there should be an exchange of libraries. The books should be called in on a certain day, and a man employed to make the exchange throughout the township. This can be very easily arranged. A traveling library may be transferred from one of the schools to the adjoining district, the library there taken up, and in a similar way carried to the next school. This can be done very promptly and at a trifling expense, as the box of books is so light that it may be conveyed in a buggy or sleigh from district to district. In this way the pupils and patrons of each district will, in time, have access to the books in all the libraries.

The general management of the libraries should be in the hands of a competent and responsible person, and reports should be required at regular intervals. This is all important, as the success of the system is dependent upon efficient administration. Where there is a township superintendent, he should have the management of the traveling libraries, and where there is a central high school, it should be the depository for the libraries when the schools are not in session. It should also have a permanent library, accessible to its pupils, and for purposes of reference to the people of the entire township.

That such a system is feasible has been demonstrated by actual experience in Ohio and other states. In our own state the field has been limited because private contributions have been the only source of support. Under the new law every township, if its board of education so desires, may have its system of traveling libraries.

The ideal toward which the township board should work is a carefully selected permanent library in each sub-district, and if there be one, a larger library at the central high school. The traveling library system may be used as a temporary aid to this end. As already stated, too much emphasis cannot



be placed on the importance of efficient administration. All essential rule to be observed is compressed in a single sentence: Keep the books in circulation and do not lose them. Much of the prejudice against the purchase of books and apparatus for schools is due to the carelessness with which this property is often managed after it has been purchased. Every teacher should be held to a strict account for the library in his school, and provision should be made for the safe keeping of the books when the schools are not in session. Fortunate is the township that has a superintendent of schools who will assume responsibility for this important work. Ohio already has a number of such who are rendering excellent service. With the centralization of schools now in progress and a growing interest in the extension of library privileges to villages and rural districts, it is hoped that township supervision may have a wider field.

FORMS .FOR PETITIONS TO BOARDS OF EDUCATION AND CITY OR VILLAGE COUNCILS.

PETITION TO BOARD OF EDUCATION.

To the Board of Education of ..... School District.

Gentlemen:— We, the undersigned citizens, residing in ..... school district, do hereby most respectfully petition your honorable body to establish in said school district a public library free to all the inhabitants thereof.

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PETITION TO CITY OR VILLAGE COUNCIL.

To the Council of the Incorporated (city or village) of .....

Gentlemen:— We, the undersigned citizens, residing in the incorporated (city or village) of ..... do hereby most respectfully petition your honorable body to establish in said (city or village) a public library free to all the inhabitants thereof.

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RULES AND REGULATIONS.

The Rules and Regulations on the following pages are intended to be suggestive. They have been successfully tested in libraries ranging from the largest to the smallest in the State.

## REGULATIONS OF THE PUBLIC LIBRARY OF CINCINNATI.

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### GENERAL.

No. 1. The Librarian, shall, under the direction of the Board of Trustees, have the charge and superintendence of the rooms of the library, and shall be responsible for the care and safety of all books and other public property contained in them, as well as for the orderly deportment of readers.

No. 2. The Library shall be open from 8 o'clock a. m. to 9:30 p. m. on all secular days; and on Sundays, for reference only, between the same hours; provided that the library shall be closed on legal holidays and such other days as the Board of Trustees may designate. The branch libraries, reading rooms and delivery stations shall be open at such hours as the Board shall direct.

No. 3. Any suggestions from patrons looking to the improvement of the service or purchase of special books will receive careful consideration by the Board of Trustees.

### REFERENCE DEPARTMENT.

No. 4. Any person of good deportment and habits may use the reading rooms. Books and periodicals for use only in the library building may be had upon presentation of the slip provided for this purpose properly filled out with the name and address of the borrower, and the number and volume of the book or periodical desired. Blank slips may be obtained of the library attendants. Books and periodicals lent for use in the library building must not be removed from the room in which they are delivered to the borrower thereof, but shall be returned to the attendant in charge before leaving such room. No slips are required for books on open shelves.

### CIRCULATING DEPARTMENT.

#### PRIVILEGES TO RESIDENTS.

No. 5. Any resident of Hamilton County, Ohio, may draw books from the library by registering his or her name and residence, and complying with either of the following conditions:

I. By being satisfactorily vouched for in writing by any responsible citizen of Hamilton County, Ohio, in the manner prescribed by the Board of Trustees, to remain in force not more than three years.

II. By depositing with the Librarian three dollars, or the value of the work desired.

#### PRIVILEGES TO NON-RESIDENTS.

No. 6. Any non-resident may draw books from the library by registering his or her name and residence and complying with one of the following conditions:

I. By making a deposit of three dollars and an annual payment, in advance, of three dollars.

II. If attending an educational institution, in Hamilton County, approved by the Board of Trustees, by furnishing a satisfactory guaranty from the authorities of the institution.

III. If an officer or enlisted man of the United States army, navy or other general government service stationed in Cincinnati or vicinity, by complying with the provisions of paragraph I. of article 5.

#### REGISTRATION.

No. 7. Application blanks may be secured at the registration desk in the library or at any of the branches or stations, and must be signed in the presence of the registration clerk, branch librarian, or station-keeper.

No. 8. Each person entitled to draw books from the library will be supplied with a card inscribed with his or her name, residence, date of expiration, and registration number. This card must be presented whenever a book is borrowed, or returned, and if lost, it will be replaced fourteen days after notice of such loss, on payment of ten cents. Immediate notice of a change of residence must be given at the library or stations. Neglect to give this notice may subject the cardholder to suspension or forfeiture of privileges.

#### CIRCULATION OF BOOKS.

No. 9. Two books may be taken on a card, provided only one is English fiction. If a work of fiction is published in two or more volumes, however, it shall count as one book.

No. 10. Books of recent purchase, which are marked as seven-day books by a figure 7 on the book-slab, shall not be retained more than one week, and cannot be renewed. Other books may be retained two weeks, and may be renewed for the same period. When once renewed they cannot be reissued to the same person until they have been on the shelves twenty-four hours.

No. 11. Books may be renewed personally at the library, branch, or delivery station, or by a postal card sent to the library or branch, giving the date on which the book is due, the number of the book shown on the pocket, full address of the borrower and the number of his card. This postal should reach the library or branch not later than the day the book is due. If received later than this, a fine of two cents per day will be charged for each day delinquent. Upon a request for renewal, a notice will be sent in return, stating that the book has been renewed as requested, with the amount of fine, if any. This notice must accompany the book when it is returned.

*This rule does not apply to seven-day books; these cannot be renewed.*

No. 12. Books may be reserved at the library or through the branches or delivery stations by payment of two cents. The person asking to have a book reserved will receive notice as soon as the book is on the shelves of the library, and such books will be reserved for forty-eight hours after said notice is mailed, the books being charged from the date of mailing the notice.

No. 13. Encyclopedias, dictionaries, and other works of reference, rare and illustrated books, and such works as for any reason are restricted from circulation by the Board of Trustees, can be consulted only in the library building.

#### PENALTIES.

No. 14. Each borrower is responsible for all books drawn on his card. The borrower's card, when not in use, should be left with the registry clerk, branch librarian, or station-keeper.

No. 15. All injuries to books and all losses shall promptly be made good to the satisfaction of the Librarian.



No. 16. A fine of two cents a day (including Sundays and holidays) must be paid on each book which is not returned according to the provisions of the preceding rules. To this fine shall be added the expense of collection and of serving notice.

No. 17. If any book be not returned within one month after service of notice, the Librarian shall proceed to collect the value of the book, with accrued fines and other charges to the date of payment, by legal process, if necessary.

No. 18. No books can be drawn while any charge remains unpaid.

No. 19. Writing or marking in books is strictly prohibited.

No. 20. Any person abusing the privileges of the library, or violating these rules, shall be temporarily suspended from its privileges, and the case shall be reported to the Board of Trustees for such action as the Board may deem proper.

#### CONTAGIOUS DISEASES.

No. 21. The library is in daily communication with the Health Department, receiving notice of all cases of infectious diseases. No books will be loaned where cases are reported, and no books will be received from infected houses, except through the health officers.

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### RULES OF THE CARNEGIE LIBRARY OF STEUBENVILLE.

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1. The Library will be open daily from 9 a. m. to 9 p. m., Sundays and holidays excepted. From October 1st to June 1st, the Library will be open on Sunday from 2 to 6 p. m.

2. The use of these rooms is free to all, residents or non-residents, and a borrower's card is not necessary for such use. Readers have access to the books on the shelves in these rooms, but they are requested to leave them on the tables and not attempt to return them to their places.

3. Any resident of Steubenville is entitled to draw books from the library by signing the proper application and agreement. Children under 14 years of age, however, must have their applications signed also by parent or guardian.

Non-residents may draw books on payment of one dollar per year in advance.

Temporary residents may draw books by depositing one dollar. From this, twenty-five cents will be deducted for every month or fraction of a month that they use the Library, and the remainder returned to them on their removal.

4. Application blanks may be secured at the Delivery Desk, and must be signed at the Library or in the presence of one of the Library assistants.

5. Each person entitled to draw books from the Library will be supplied with a card on which is written the borrower's name, residence and register number. This card must always be presented when a book is borrowed or returned, and, if lost, it will be replaced fourteen days after notice of such loss, on payment of ten cents. *Immediate notice of a change of residence must be given at the Library.*

6. Only one borrower's card will be issued to each person, and each borrower is responsible for all books drawn on his card. The borrower's card, when not in use, should be left at the Delivery Desk in the Library.

7. Two books may be taken on a card, provided one only is fiction. If

a work of fiction is published in two volumes, however, both volumes may be taken on one card.

8. The circulating copies of current magazines may be kept seven days, and cannot be renewed. Other books may be kept two weeks, and, *except fiction*, may be renewed for the same period of time from the date on which application for renewal is made, provided the request for renewal is made in person, or received by mail before the book is overdue.

9. Books may be renewed personally at the Library, by telephone, or by a postal card sent to the Library, giving the date on which the book is due, the call-number of the book, full address and the number of the borrower's card. This postal should reach the Library not later than the day the book is due. If received later than this, the book will be renewed, but the fine for the intervening days must be paid.

*This rule does not apply to fiction, which is not renewable, nor to circulating copies of current magazines.*

10. Books may be reserved at the Library by payment of one cent for postal notice.

The person asking to have a book reserved will receive notice as soon as the book is returned to the Library.

11. A fine of two cents a day (including Sundays and holidays) must be paid on each volume kept over time. A book kept two weeks over time may be sent for at the expense of the borrower.

12. No book can be drawn until fines and claims for damages are paid.

13. Books cannot be exchanged the same day they are drawn.

14. No claim can be established because of the failure of any notice to or from the Library, through the mail.

15. Any one wishing to have certain books added to the Library is requested to fill out slips which are provided for that purpose.

16. Injuries to books beyond reasonable wear, and all losses, shall be made good by the borrower. If one volume of a set is lost, the loser will be held responsible for the value of the set, unless the lost volume be satisfactorily replaced.

Intentional injury of books or other property of a public library, incurs, by statute, a liability of a fine of \$100.

*Gifts to the Library of Books and Magazines are always welcome.*

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## RULES SUGGESTED FOR BORROWERS IN A SMALL LIBRARY.\*

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Rules should be as simple as possible and not be designed to restrict liberty but to prevent encroachment and secure the greatest good to all.

### RULES.

Borrowers.—Adults are entitled to draw books by filling out an application blank. Children must obtain the signature of parent or other responsible guarantor.

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\* Substantially as recommended by the Wisconsin Free Library Commission.



Borrower's card.—If a borrower's card is lost, a new one will be given after seven days' notice or upon payment of five cents.

Number of Volumes.—(1) Two books not fiction, or (2) one work of fiction and one not fiction may be drawn at a time. Two volumes of the same work are considered as one book.

Time Kept.—A book may be kept two weeks, except recent fiction marked "Seven Day Book."

Renewal.—All books, other than "Seven Day Books," may be renewed for fourteen days.

Over Due Books.—A fine of one cent a day will be imposed for books kept over time.

Hours.—The library shall be open every week day, holidays excepted, from \_\_\_\_\_ to \_\_\_\_\_.

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## BY-LAWS SUGGESTED FOR BOARDS OF DIRECTORS OF SMALL PUBLIC LIBRARIES.\*

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BY-LAWS OF THE BOARD OF TRUSTEES OF THE FREE LIBRARY OF \_\_\_\_\_, OHIO.

1. Officers.—The officers of the Board shall be a President, Vice-President and Secretary, who shall be elected annually from their own members.

The President shall perform the duties generally pertaining to that office.

The Vice-President shall, in the absence or disability of the President, perform all the duties of the President.

The Secretary shall record all the official actions of the Board and have custody of all its official books, records and accounts except those in current use by another officer..

2. Meetings.—The regular meetings of the Board shall be on the (first Monday) of each month at \_\_\_\_\_ p. m., at the library.

The annual meeting shall be on the (first Monday) of May in each year.

Special meetings shall be called by the President or by request of any two trustees for the transaction only of business stated in the call.

Six members shall constitute a quorum.

3. Committees.—At the annual meeting the President shall appoint standing committees as follows: a committee of three members on library, a committee of three members on finance and a committee of four members on rooms.

The committee on library shall supervise the selection, buying, exchanging and binding of books and periodicals, and have general supervision of the administration of the library and reading room.

The finance committee shall have charge of all library finances, examine and report upon all bills against the Board, and make an annual investigation of and report upon the library fund in the hands of the treasurer of the district (or city or village).

The committee on rooms shall have general charge of the heating, lighting and arrangement of the rooms, and the care of the fixtures and furniture.

4. Claims.—All claims against the Board must be presented at a meeting of the board and referred to the committee on finance for investigation and report. The President and Secretary shall draw orders upon the treasurer of the district (or city or village) for the payment of bills which the board orders paid.

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\* Substantially as recommended by the Wisconsin Free Library Commission.



5. Librarian.—The librarian shall have charge of the library and reading-room and be responsible for the care of the books and other library property; classify and arrange all books and publications and keep the same cataloged according to such plans as may be approved by the board; promptly report any delinquencies to the committee on library; keep exact account of all moneys received from fines and other sources and report the amount to the board at its regular meetings in January, April, July and October and pay all balances to the Secretary at the designated meetings, and discharge such other duties as may be prescribed by the board, provided that in the performance of his duties he shall not incur debt or liability of any kind without express authority from the board.

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## AIDS AND GUIDES FOR LIBRARY WORKERS.

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### GENERAL WORKS.

*Essentials in Library Administration.* Stearns, L. E. Boston: A. L. A. Pub. Board. 1905. 15c.

*Hints to Small Libraries;* revised and enlarged. Plummer, M. W. N. Y.: Truslove & Comba, 1898. 50 cents.

Contents.—Receiving and entering books; book numbers and cataloging; shelf list and inventory; mechanical preparation of books for the shelves; binding; relations with the public; charging system; reading room and reference work; selecting and ordering books; rooms and fixtures; library tools.

*Instruction in Library Administration in Normal Schools.* Baldwin, E. G. Chicago: Univ. of Chicago Press. 1906. 10c.

This publication might be had by addressing Irwin Shepard, Secretary N. E. A., Winona, Minn.

*Library Primer.* Dana, J. C. Chicago: Library Bureau. 1895. \$1.00.

Contents.—The beginnings—library law; preliminary work; what does a public library do for a community? general policy of the library; trustees; the librarian; the trained librarian; rooms, building, fixtures, furniture; things needed in beginning work; the Library Bureau; selecting books, reference books for small library; reference work; reading room; list of periodicals; buying books; ink and handwriting; care of books; accessioning; classifying; decimal classification; expansive classification; author numbers or book marks; shelf list; cataloging; preparing books for the shelf; binding and mending; pamphlets; public documents; checking the library; lists, bulletins, and printed catalogs; charging systems; meeting the public; the public library for the public; advice to a librarian; the librarian as a host; making friends for the library; public libraries and recreation; books as useful tools; village library successfully managed; rules for the public; rules for trustees and employes; reports; library legislation; A. L. A. and other library associations; library schools and classes; library department of N. E. A.; young people and the schools; how can the library assist the school? children's room; schoolroom libraries; children's home libraries; literary clubs and libraries; museums, lectures, etc.; rules for the care of photographs.

*Public Libraries in America.* Fletcher, W. I. Boston: Little. 1899.

Contents.—The public library movement, its history and significance; library laws: public library and the community; library buildings; classification and cata-

logs; minor details of library management; selection and purchase of books; reference work; public library in relation to the schools; university extension, etc.; librarian, his work, and his training for it; American library association; a few representative libraries; special libraries; public libraries in Canada; the future of the public library. Appendix: 1, Scheme of classification; 2, Special collections; 3, Sunday opening of libraries; 4, Gifts to libraries; 5, Statistics; 6, Library rules; 7, Biographic sketches.

## SELECTION OF BOOKS.

*A. L. A. Catalog.* Wash.: Library of Congress. 1904.

"The 'A. L. A. catalog' of 1904, renewing the similar work of 1893, should have first mention as the most practical and helpful work placed, within this period, at the service of libraries and readers. It was prepared under the general editorship of Melvil Dewey, with the help of Miss May Seymour, of Albany, and Mrs. H. L. Elmendorf of Buffalo, as associate editors, with the co-operation of the New York State Library and Library of Congress staffs in preparing and revising lists, and of over a hundred specialists in passing on books to be included in the several departments, under the authorization and general oversight of the Publishing Board of the American Library Association, with the Government Printing Office as printer, and the Library of Congress as publisher—a happy conjunction which has resulted in a volume of about 900 pages, cataloging, with notes, 8,000 volumes best suited for a popular library."

"The merit and usefulness of the work are without question. A new library that buys this list of books, adopts the Decimal classification and is thus enabled to use the volume as its printed catalog will have the nucleus of a better collection of books than most small libraries and will very greatly reduce the expense of library organization."

For this publication address Superintendent of Documents, Washington, D. C. Paper, 25 cts.; cloth, 50 cts.

*Annotated Bibliography in Fine Art.* Sturgis, Russell, and Krehbiel, H. E. Chicago: Library Bureau. 1897. \$1.00.

*Annual American Catalogue.* Cumulated 1900-1903. N. Y.; Office of Publishers' Weekly. 1904. \$4.00.

*Books for Boys and Girls.* Hewins, C. M. 2d ed. Boston: A. L. A. Pub. Board. 15 cts.

*Books for Girls and Women and Their Clubs.* Iles, George, ed. Boston: A. L. A. Pub. Board. 90 cts.

*Bulletin of Ohio Teachers' Reading Circle.* Free.

The bulletin contains outline of courses of reading for teachers and pupils, together with lists of books and publishers' prices. It is issued annually.

Copies may be had by addressing Supt. J. J. Burns, Secretary O. T. R. C., Defiance, Ohio.

*Class List of a Library Recommended for Schools.* Albany: University of New York. 5 cents.

*Guide to the Use and Study of Reference Books.* Kroeger, Alice Bertha. Boston: Houghton. 1902. \$1.25.

This work contains a critical estimate of the value of reference books. It should be in every library.

*Handbook of Labor Literature.* Marot, Helen. Phila.: Free Library of Economics and Political Science. 1899. \$1.00.

*List of Books for Township Libraries.* with supplementary list for graded and high school libraries. Free.

For copies of this list address State Superintendent of Schools, Madison, Wis.



*The Literature of American History.* Larned, J. N., ed. Boston: Houghton. 1902. \$6.00.

"A bibliographical guide in which the scope, character, and comparative worth of books in selected lists are set forth in brief notes by critics of authority." A valuable aid to those wishing to make selections within the limits indicated by the title. The work includes references to books published prior to 1900. A supplement by Philip P. Wells covers the years 1900-1901.

*New York State Library Bulletin. Bibliography.*

Contains carefully annotated lists of books on various subjects with decimal classification. For list of bulletins address Melvil Dewey, Director of State Library, Albany, N. Y.

*Reader's Guide in Economics, Social and Political Science.* Bowker, R. R. and Iles, George. N. Y.: Putnam, 1891. \$1.00.

*Reading for the Young.* Sargent, J. F. Boston: Houghton. \$1.50.

Supplement. Boston: Houghton. \$1.00.

*Suggestive List of Books for a Small Library.* Wisconsin Free Library Commission, comp. Madison, Wis. 1905.

This list is recommended by the League of Library Commissions.

*United States Catalogue.* Books in print, 1902. Potter, Marion E., ed. Minneapolis: The H. W. Wilson Co., 1903. \$15.00. Supplement. 1902-5. \$15.00.

#### PERIODICALS.

*A. L. A. Book-list.* Monthly. A. L. A. Publishing Board, Boston, Mass. \$1.00 a year.

A list of current books with annotations. Issued monthly except in June, July, August and September.

*Book Buyer.* Monthly. Charles Scribner's Sons, New York, N. Y. \$1.00 a year.

*Book Review Digest.* Monthly. The H. W. Wilson Co., Minneapolis, Minn. \$5.00 a year.

*Cumulative Book Index.* Monthly. The H. W. Wilson Co., Minneapolis, Minn. \$4.00 a year.

*Current Literature.* Monthly. New York, N. Y. \$3.00 a year.

*Dial.* Semi-monthly. Chicago, Ill. \$2.00 a year.

*Nation.* Weekly. New York, N. Y. \$3.00 a year.

*New York Times Saturday Review.* New York Times Co., New York, N. Y. \$1.00 a year.

*Publishers' Trade List Annual.* Publishers' Weekly Office, New York, N. Y. \$2.00 a year.

*Publishers' Weekly.* New York, N. Y. \$3.00 a year.

*Putnam's Monthly.* New York, N. Y. \$3.00 a year.

#### CLASSIFICATION AND CATALOGING.

*Abridged Decimal Classification and Relative Index.* Dewey, Melvil, Chicago: Library Bureau. 1894. \$1.50.

*A. L. A. Rules.* Library of Congress. Wash.: Government Printing Office. 1902. 10 cents.

Condensed rules for an author and title catalog, as revised by the Advisory Catalog Committee of the American Library Association.

*Cutter-Sanborn 3 Figure Alphabetic Order Table.* Chicago: Library Bureau. 1895. \$2.50.



*Decimal Classification and Relative Index.* 6th Ed. Dewey, Melvil Chicago: Library Bureau. 1899. \$5.00.

*Handbook of Card Distribution.* Library of Congress. Wash.: Government Printing Office. 1902.

Contains information relative to the distribution and ordering of printed catalog cards. Six supplements have been added.

*List of Subject Headings for Use in Dictionary Catalogs.* A. L. A. Chicago: Library Bureau. 1898. \$2.00.

*Rules for Dictionary Catalog.* Bureau of Education. (Compiled by C. A. Cutter.) Wash.: Government Printing Office. 4th Ed. 1904.

*Simplified Library School Rules.* Dewey, Melvil, ed. Chicago: Library Bureau. 1898. \$1.25.

Contains catalog, accession and shelf list rules.

#### LIBRARY PERIODICALS.

*Library Journal.* Monthly. New York, N. Y. \$5.00 a year.

*Public Libraries.* Monthly. Library Bureau, Chicago, Ill. \$1.00 a year.

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### BOOKS AND LIBRARIES — TRIBUTES OLD AND NEW.

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Perhaps the most characteristic educational movement of the past fifty years is that which has created the modern public library and developed it into broad and active service. —*Theodore Roosevelt, in his first message to Congress.*

I choose free libraries as the best agencies for improving the masses of the people, because they give nothing for nothing. They only help those who help themselves. They never pauperize. They reach the aspiring, and open to them the chief treasures of the world — those stored up in books. A taste for reading drives out lower tastes. \* \* \* \* \* For these and other reasons I prefer the free public library to most, if not to any other agencies, for the happiness and improvement of a community. *Andrew Carnegie.*

The book, unlike the living teacher, may be made the constant companion of the child or family; while a sufficient number of them in a district may be made the means of supplying every household, at the same time, with a healthful source of entertainment and instruction.

*Henry W. King, Secretary of State. 1851.*

The winter in Ohio, as in more northern states, brings leisure to those engaged in agricultural pursuits; and unless a taste for intellectual enjoyment prevails, is there not great danger that the mind will either become sluggish, or seek more ignoble excitement? Thus, the access to books and a disposition to read them become not only a positive blessing to youth, but a safeguard against idleness and dissipation. *H. H. Barney.*

You only, O Books, are liberal and independent. You give to all who ask, and enfranchise all who serve you assiduously. Truly you are the ears filled with the most palatable grains. You are golden urns in which manna is laid up; rocks

flowing with honey: \* \* \* \* store rooms ever full; the four streamèd river of Paradise, where the human mind is fed and the arid intellect moistened and watered; fruitful olives: \* \* \* \* fig trees knowing no sterility; burning lamps to be ever held in the hand. —*Richard De Bury, 1345.*

That the public library is a part of the educational system should never be lost sight of in the work of establishing it, or in its management. To the great mass of people it comes as their first and only educational opportunity. The largest part of every man's education is that which he gives himself. It is for this individual, self-administered education that the public library furnishes the opportunity and the means. The schools start education in childhood; libraries carry it on. *J. C. Dana, in Library Primer.*

Libraries for the people are wanted. These libraries must be in the people's hands—in the hands of the women, the girls and the children by each fireside. In their evening hours, in rain, in winter, when out of work, and on Sunday, they must find at home, that center of affection and virtue, the beneficial, high-toned, poetical, historical, political, philosophical, religious, interesting, exciting, and pleasing communion with the minds, which, in all ages, have best understood, felt, written or sung the human heart and human intellect; these books must be the hosts, the visitors, the guests and the friends of the workman's home. \* \* \* \* They must even enter it gratuitously, like the air, the sunlight, or the sweet perfume of the garden. —*Lamartine.*

The number of new libraries founded has been so great that in an ordinary town we no longer ask, "Have you a library?" but "Where is your library?" as we might ask where is your school house, or your postoffice, or your church.

And so our leading educators have come to recognize the library as sharing with the school the education of the people. The most that the schools can hope to do for the masses, more than the schools are doing for them in many sections, is to teach them to read intelligently, to get ideas readily from the printed page. \* \* \* \* The school teaches them to read; the library must supply them with reading which shall serve to educate, and so it is that we are forced to divide popular education into two parts of almost equal importance and deserving equal attention; the free school and the free library. *Melvil Dewey.*

It is the duty of the state to give each future citizen an opportunity to learn to read, it is equally its duty to give each citizen an opportunity to use that power wisely for himself and the state. Wholesome literature can be furnished to all the readers in a community at a fraction of the cost necessary to teach them to read and the power to read may then become a means to a life-long education. A library is an essential part of a broad system of education, and a community should think it as disgraceful to be without a well conducted library as to be without a good school.

Libraries are needed to furnish the incentive and the opportunity for wider study to the pupils of the schools; to give to the mechanic and artisan a chance to know what their ambitious fellows are doing; to give to men and women, weary and worn from treading a narrow round, excursions into fresh and delightful fields; to give clubs for study and amusement material for better work, and, last but not least, to give wholesome employment to all classes for those idle hours that wreck more lives than any other cause.

—*Wisconsin Free Library Commission.*



MONTHLY BULLETINS  
OF THE  
OHIO STATE LIBRARY

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Vol. 2, Nos. 4, 5, 6, and Vol. 3, Nos. 1, 2.

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SEALS AND OHIO FLAG.

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SEALS OF THE NORTHWEST TERRITORY AND OHIO.

The origin of the seal of the Northwest Territory is involved in obscurity. The seal itself seems to have disappeared long ago. The earliest mention of its use is made in Governor St. Clair's proclamation of July 26, 1788. Hon. Wm. H. English, of Indiana, with the aid of the authorities at Washington, including President Benjamin Harrison, examined many impressions of the seal on old documents, and had made a sketch which he considered "an exact reproduction in every respect of the original."

In regard to the design, Mr. English says:

A study of this historic seal will show that it is far from being destitute of appropriate and expressive meaning. The coiled snake in the foreground and the boats in the middle distance; the rising sun, the forest tree felled by the ax and cut into logs, succeeded, apparently, by an apple tree laden with fruit; the Latin inscription, "*Meliores lapsa locavit*," "he has planted a better than the fallen," all combine forcibly to express the idea that a wild and savage condition is to be superseded by a higher and better civilization.

The first constitution of Ohio, which was adopted November 29, 1802, and went into effect March 1, 1803, made general provision for a state seal without specifying its form. The origin of its essential features is given as follows:

For some time after the admission of Ohio into the Union, Secretary of State, William Creighton, used his private seal for state papers; but one night, early in the spring of 1803, he, Governor Edward Tiffin, and U. S. Senator Thomas Worthington, with perhaps a few others, met at Adena, the home of Worthington, near Chillicothe, to discuss state affairs.





FACSIMILE OF SEAL USED IN  
THE OFFICE OF THE  
GOVERNOR OF  
OHIO.

They talked through the night and among other things considered the matter of a state seal. Before separating, they stood for a moment on the lawn south of the house, just as the sun rose slowly behind the Mount Logan Range. Looking with admiration on the morning scene spread out before them, Creighton said: "The rising sun of the new state!" He then made the suggestion for the great seal of Ohio. The arrows and the sheaf were after-thoughts. This is the legend as it has been handed down by the Creightons and the Worthingtons.

The addition of the canal boat made some changes necessary. To get such a view, one must look across Mount Logan from the range of hills just west of Chillicothe. It is doubtful, however, whether there was any effort to make the seal an actual picture. The hills have always been conventionalized, and in the first seal the river was indicated only by a row of trees.

It might be added that in some devices two or more sheaves of wheat appear and that great liberties have been taken with the bundle of arrows, as will be seen in one of the illustrations.

The law describing the seal was passed March 25, 1803. It prescribed the following device:

On the right side, near the bottom, a sheaf of wheat, and on the left a bundle of seventeen arrows, both standing erect; in the background and rising above the sheaf and bundle of arrows, a mountain over which shall appear a rising sun, the state seal to be surrounded by these words: "The Great Seal of the State of Ohio."

About two years later this law was repealed. The constitutional provision requiring a state seal remained in force, but there was no specific legislation on the subject until 1866.

In commenting on the omission in our laws, Judge Rush R. Sloane says:

What a singular oversight in legislation! Is it not remarkable that in this long period of years some of the state officials, the codifiers of the statutes, or the members of the constitutional convention of 1851, among whom were many of the ablest lawyers of the state, should not have discovered it?

We can now understand that it was because there was no law which required a particular form or device, that there were so many different devices used upon the seals of our state during this long period of years. In the absence of any act or statute upon this subject, any one who was aware of the repeal of the act of 1803 could secure a seal according to his caprice or interest; and this evidently was the result, as we find that about the time of the inauguration of the canal system in Ohio, the canal or river with the canal-boat upon it, first appeared on our state seal. The mountain, as it was designated in the act of 1803, has never appeared!





SEAL OF THE NORTHWEST  
TERRITORY.



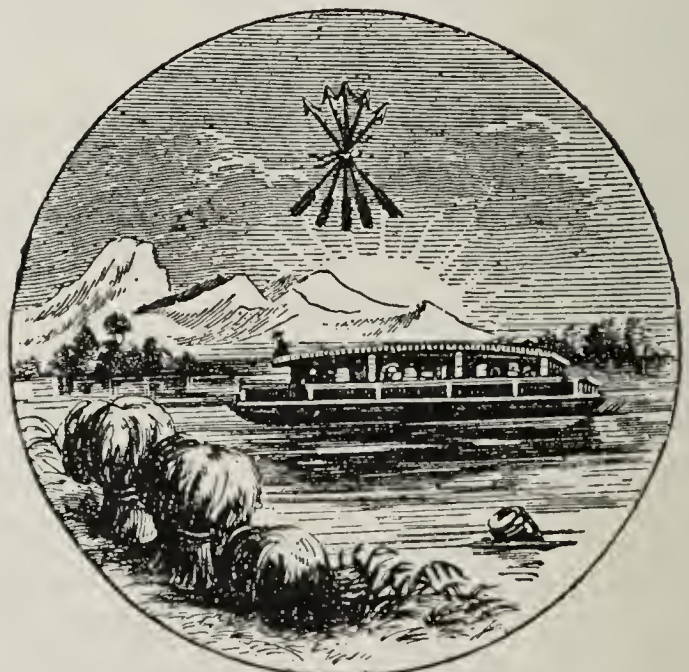
FIRST SEAL OF OHIO.



THE PRESENT SEAL OF OHIO.



SEAL OF 1866.



SEAL OF OHIO.  
From a print made about 1860.



on any of the seals of the state, nor has it figured in the coat of arms of the state, so far as I have been able to discover; but on the seal provided under that act, as well as the seals and coats of arms of later statutes, in conformity to the practice under the former and the language of the latter, it has always been "a range of mountains," which is more appropriate to Ohio, as the first-born of the Ordinance of 1787.

It is useless to attempt to give a description of all of these devices, which had their origin in individual taste and not in any statute. You will see on most of them the date "1802," or "1803," in cardinal numbers. On some you will see a broad-horn floating on a river; and later, the canal-boat and canal.

Judge Sloane does not refer to the traditional origin of the seal. He seems to accept the view advanced by other writers who explain that the range of mountains represents the Alleghanies, over which came the pioneers, that the river is the Ohio in the valley of which they laid the foundation of the new state, fittingly symbolized in the rising sun.

The act of 1866 provided for an elaborate coat of arms, and the following motto to be inscribed on the seal: "Imperium in Imperio," — an empire within an empire, or a government within a government, a sentiment that gave offense to many people and led to the repeal of the law in 1868 and the substitution of the present act which differs but little from the law of 1803.

No motto is now provided for either the seal or the coat of arms of the state. Ohio is therefore without a motto.

For a very complete account of the evolution of the great seal of the state of Ohio, the reader is referred to Judge Sloane's address on that subject, published in the "Ohio Centennial Celebration, 1903."

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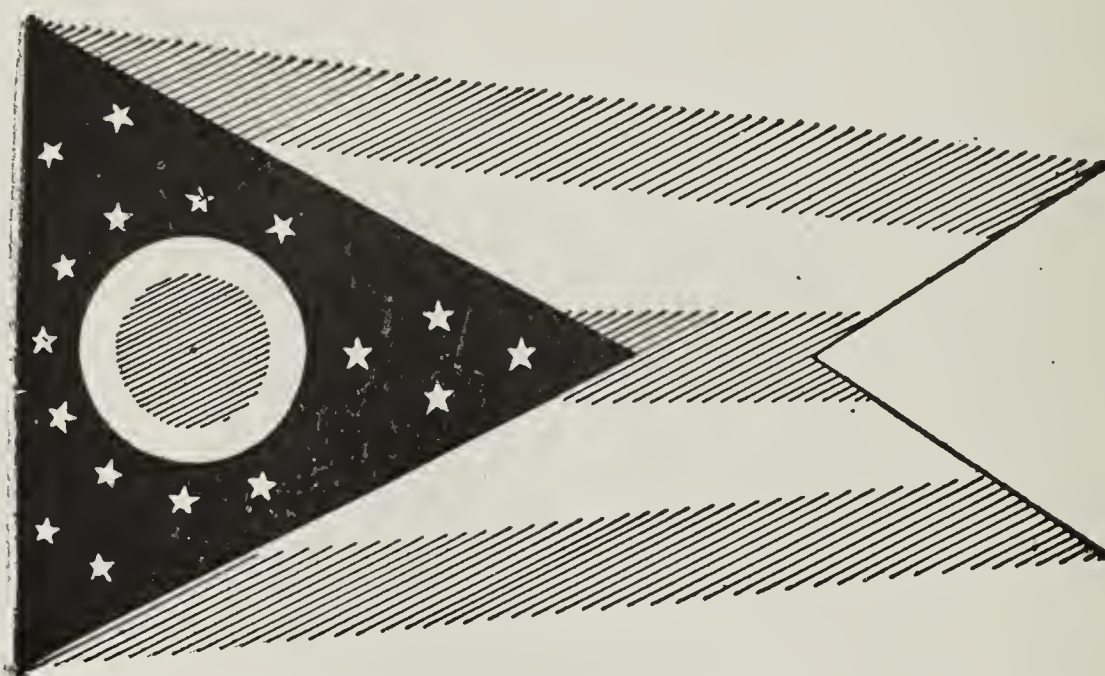
## THE FLAG OF OHIO.

The initial number of *The Ohio Magazine* says, editorially:

Many Ohioans may not be aware that their state has a flag, and among those who have been aware of it from the enactment of the law a disposition has been manifested to regard it with scant courtesy — more's the pity. It has been asserted with a great show of national patriotism, that the stars and stripes "ought to be good enough" for Ohio. But the good people who have thus expressed themselves have never suggested substituting the seal of the United States for the seal of Ohio, and have never objected to the latter on the ground that it places narrow and local restrictions on the scope of patriotism, as has been charged with reference to the flag. But if a state of the Union is to have a seal of its own, why not a flag? The fact is that both are fitting emblems of a commonwealth that is fully able to justify its separate and peculiar existence, as well as its identity as a part of the federal Union.

Those who visited the Pan-American Exposition at Buffalo in the summer of 1901 may have noticed the flag displayed at the Ohio building. It was designed by John Eisemann, architect, and approved by the Exposition Commission. It had no legal status, however, until the following year. On April 1, 1902, W. S. McKinnon, Speaker of the House of Representatives and a member of the Ohio Pan-American Exposition Commission, introduced a bill authorizing and describing the flag. This became a law May 9th of the same year. The following is the essential text of the act:

The flag of the State of Ohio shall be pennant shaped. It shall have three red and two white horizontal stripes; the union of the flag shall be seventeen five-pointed stars, white, in a blue triangular field, the base



FLAG OF OHIO.

of which shall be the staff end or vertical edge of the flag, and the apex of which shall be the center of the middle red stripe. The stars shall be grouped around a red disc superimposed upon a white circular "O."  
\* \* \* The proportional dimensions of the flag and of its various parts shall be according to the official design thereof on file in the office of the Secretary of State.

In the design placed on file in accordance with the above law, the dimensions are summarized as follows:

A rectangle that will include the flag is thirteen parts long and eight parts wide. In other words, it is one and five-eighths as long as it is wide. The red stripes are each one part in width. The two white stripes occupy equal portions of what is left of the flap. The blue triangular union measures eight parts from base to apex. The red disc is two parts in diameter; the width of the white ring about it is one-half part. The distance from the apex of the blue field to the apex of the triangular cut



of the tail of the flag is two parts. The stars are grouped as in the cut of the flag.

The symbolism of the flag is in part somewhat fanciful and obscure. The designer has explained it, substantially as follows:

The triangles formed by the main lines of the flag represent the hills and valleys, as typified in the State seal, and the stripes the roads and waterways. The stars, indicating the thirteen original states of the Union, are grouped about the circle which represents the original Northwest Territory, and that Ohio was the seventeenth State admitted into the Union is shown by adding the four more stars. The white circle with its red center, not only represents the initial letter of Ohio, but is suggestive of its being the "Buckeye" State.

In design this standard resembles the Cuban flag. The field and the stripes in form and number are essentially the same. Change red to blue, and blue to red, remove the stars and substitute for the disc and circular "O" a single star, and we have the pennant form of the Cuban flag. This similarity is historically fitting. A United States senator from Ohio introduced the resolution that made the people of Cuba free and independent. Ohio's sons rendered distinguished service on land and sea. An Ohio President conducted the Spanish-American war to a triumphant conclusion.



## SCARLET CARNATION AND OHIO BUCKEYE.

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### THE STATE FLOWER OF OHIO.

While "state flowers" are becoming somewhat numerous, comparatively few have been made such by legal enactment. The resolution "relative to a floral emblem for Ohio" was adopted February 3, 1904. It provides "that the scarlet carnation be adopted as the state flower of Ohio as a token of love and reverence for the memory of William McKinley." The resolution was introduced by Hon. Elijah W. Hill, of East Liverpool, O. Its purposes are set forth in his address.

*Speech of Hon. Elijah W. Hill, of Columbiana county, author of the resolution making the scarlet carnation the state flower of Ohio, delivered in the Ohio House of Representatives, January 26, 1904.*

MR SPEAKER:—It is not in anticipation of opposition that I speak in favor of this resolution, but since it is no mean thing we are about to pass upon, it may be well to stop a moment in contemplation of that which is before us. True, it is not a weighty matter of state that we consider; no state policy whose failure or success will affect the trend of the life of our citizens. Yet, it is one of those amenities that go to make the sweetness and niceties of our existence. Though there be not much in any one of them, yet in the aggregate they have much to do with our refinement and culture; they brighten our dull hours, strengthen our hearts and stimulate our hopes. Who would banish them from us? Who would tear down our ideals and leave us only the sordid essentials?

We propose in this resolution to name for Ohio a floral emblem in whose beauty and fragrance all Ohioans may be reminded of home, their common ties and all they may hold dear. Flowers, ever the emblem of beauty, the harbinger of hope and love, have been typical always of men's

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*Scarlet Carnation and Ohio Buckeye.*

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best wishes, hopes and ambitions and the typification of life immortal. Truly one of our English poets has sung—

Were I, O God, in churchless lands remaining,  
Far from the voices of teachers and divines,  
My soul would find in flowers of God's ordaining,  
Priests, sermons, shrines.

In our great seal of state we have the emblem of authority; in its flag, the banner that shows our political entity; in the buckeye, a soub-



OHIO'S STATE FLOWER.

riquet used in comradeship and fellowship. Once applied in derision, by good natured acceptance it has become significant and honorable. Now each of us proudly says, "I am a Buckeye." It is the "Tom," "Dick" and "Jack" appellation of our fellows who choose not to address us in more stately terms.

It is not the purpose in adopting a state flower to usurp the place of the buckeye. We love the term "Buckeye," its traditions and history. It is to fill another place in the hearts of our people that we seek to establish among us an emblem, not for the use of the stranger as much as for ourselves. It is our fraternal feeling that we would symbolize. In our state



flower we would say to each other, We are brother Ohioans and in this flower we have fraternal greeting.

Not all peoples have floral emblems. Customs grow slowly and events lead to their adoption. England has the rose; France has the lily; Ireland, the shamrock, and Scotland the thistle. These flowers awaken in the hearts of the natives of these countries memories of home, fireside, childhood days, sweet sorrows, family ties and the incidents of the land of their nativity. To these ends we seek to adopt the scarlet carnation as Ohio's floral emblem.

It is not a native of our own state or country. Its history takes us back to the cradle of mankind, and before him it may have existed. We learn of it on the banks of the Euphrates, in Egypt, in Greece, in Italy, and later in France and England. Thence, ever accompanying and keeping pace with the progress of civilization, it came to our shores, always loved, admired, prized. The Greeks named it *Dianthus*, the divine flower. It is beautiful and fragrant, a flower of no mean history, and no Ohioan may blush for its adoption as the flower of his state.

Its popularity among our people is unequalled by any other flower. It is used in personal adorning, in decorating our homes and our festive occasions. It knows neither rich nor poor; is common to all and is accessible at all seasons. It seems to live but to show forth its bloom, for sparse is its foliage, slender is its stem. Its bloom seems to overtax its strength, hence its inclination to droop. Its very energy in blooming frequently overcrowds its calyx, bursts asunder that physical receptacle of its being, and so hastens its decay. This recalls to us the intenseness of the Ohioan and his life, of those who not only recently, but in all times, in giving forth their fullness of life, have snapped the vital thread of existence.

We may differ in race, in intellect, in complexion,—we may dissent in philosophy, religion and politics, but alike is the color of the blood in our veins; so let the scarlet of our state flower be representative of that blood, and remind us ever of our common humanity.

Events always have their immediate cause, and that which immediately leads to the adoption of this flower as our state emblem was the love for it by our lamented McKinley. To him it was a daily companion. It is so associated with his memory in the hearts of our people that we feel it meet and appropriate to adopt it as our state flower, as a token of love and reverence to his memory. We who treasure his memory,—we who entered into his life and knew him in his day would have this flower thus enshrined. His greatness, growing greater to all each day, calls forth a memorial to him, that greatness being the full roundedness of character,—unlike that of a genius,—a greatness, great in its fullness of manhood.



Such a character causes us to say to our youth: Be like him. To associate the memory of such an one with our floral emblem is a fitting thing to do.

Then, for its beauty, its fragrance and its fitness, let it be adopted as the state flower of Ohio; and let the action of its adoption be to the memory of William McKinley. May the scarlet carnation, as our state flower, emulate us all to deeds that will represent the good that is within us.

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### THE OHIO BUCKEYE.

It is somewhat singular, but true nevertheless, that the average Ohioan is not able to point out with certainty the tree whose name is the soubriquet of his state. In the popular descriptions, fact and fancy, science and oratory are so promiscuously blended that there is nothing remarkable in the resulting confusion.

F. Andrew Michaux, the eminent French botanist who visited this country in 1807, was somewhat unfortunate in his description of the Ohio Buckeye, or *pavia Ohioensis*. He says:

This species of the horse chestnut, which is mentioned by no author that has hitherto treated of the trees and plants of North America, is unknown in the Atlantic parts of the United States. I have found it only beyond the mountains, and particularly on the banks of the Ohio for an interval of about 100 miles, between Pittsburg and Marietta, where it is extremely common. It is called "buckeye" by the inhabitants, but as this name has been given to the *pavia lutea*, I have denominated it "Ohio buckeye" because it is most abundant on the banks of this river, and have prefixed the synonym of "American horse chestnut" because it proved to be a proper horse chestnut by its fruit, which is prickly like that of the Asiatic species instead of that of the *paviae*.

The ordinary stature of the American horse chestnut is ten or twelve feet, but it sometimes equals thirty or thirty-five feet in height and twelve or fifteen inches in diameter. The leaves are palmated and consist of five leaflets parting from a common center, unequal in size, oval-acuminate and irregularly toothed. The entire length of the leaf is nine or ten inches, and its breadth six or eight inches.

The bloom of this tree is brilliant. Its flowers appear early in the spring and are collected in numerous white bunches. The fruit is one of the same color with that of the common horse chestnut and of the large buckeye, and of about half the size. It is contained in fleshy, prickly capsules, and is ripe in the beginning of autumn.

On the trunk of the largest trees the bark is blackish and the cellular integument is impregnated with a venomous and disagreeable odor. The wood is white, soft and wholly useless.

The Ohio buckeye tree reaches an average height of considerably more than twelve feet, but the greatest error of the French botanist is in the description of the bloom. This is far from "brilliant." The flowers are inconspicuous, never white, always a yellowish green. Michaux makes amends in part for his mistake in describing the above by inserting a plate of a cluster of flowers which are not white, as stated in the text, but yel-



LEAVES AND BLOOM OF THE OHIO BUCKEYE.

lowish green as seen in nature. For ornamental purposes the tree has nothing to make it preferred to the horse chestnut.

As these two trees are frequently confused in the popular mind, the following discriminating description from "Our Native Trees," by Harriet L. Keeler, is here reproduced:

The horse-chestnut is European, the buckeye native. The horse-chestnut is seven-fingered, the buckeye five-fingered. The horse-chestnut is the sturdier tree, the leaves are larger, rougher, the flowers



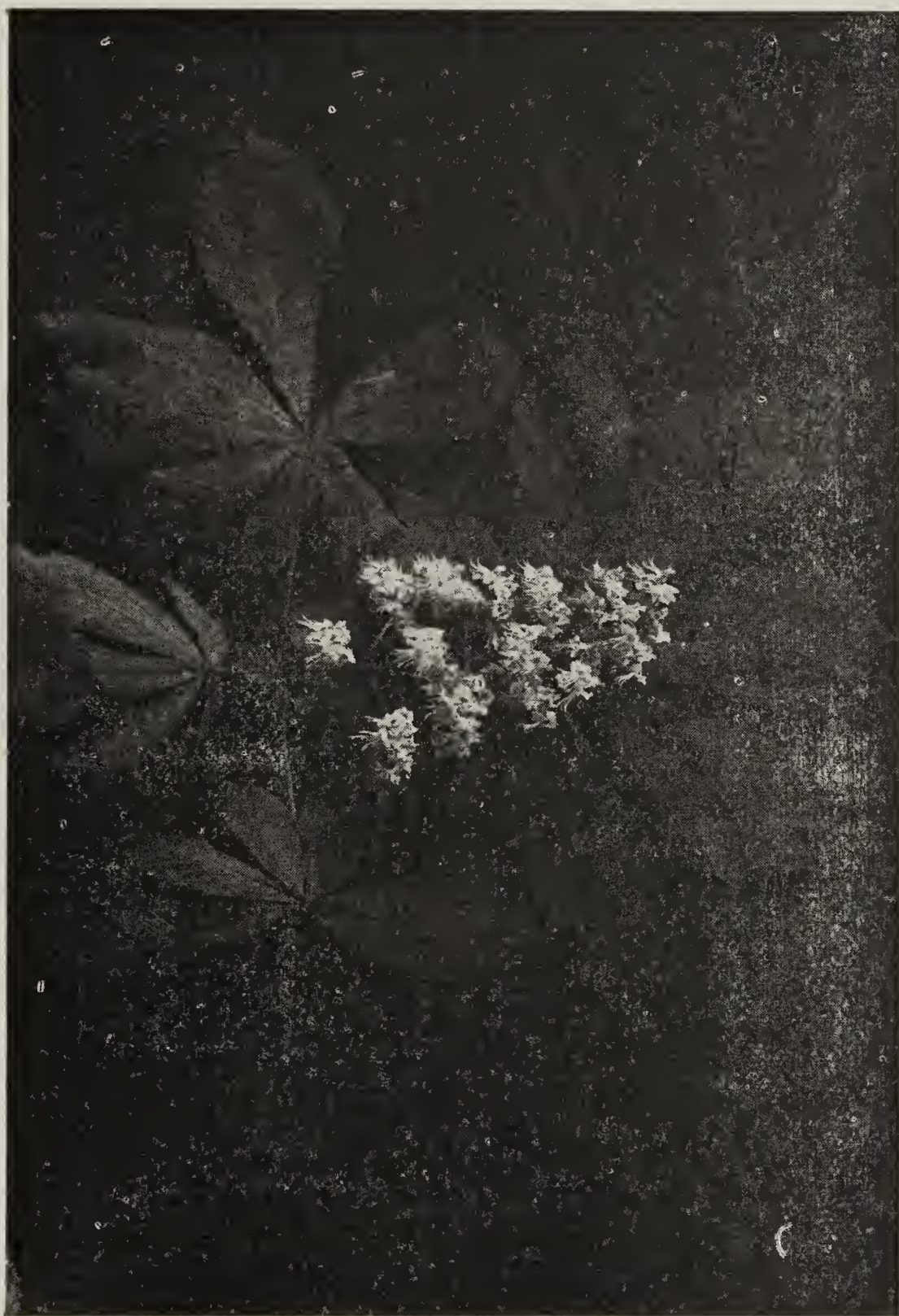
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*Scarlet Carnation and Ohio Buckeye.*

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LEAVES AND FLOWERS OF THE HORSE CHESTNUT.





much more profuse and more beautiful than those of the buckeye. It is a fact well known that European plants — herbs or trees — if they flourish in America at all are very likely to produce sturdier plants than the native representatives of the same genus. \* \* \* \* The horse-chestnut is stronger than the buckeye. There is a certain delicacy of fibre inseparable from all American native life. Perhaps some day the biologist will read the riddle.

How the buckeye got its name is quite obvious. "When the shell cracks and exposes to view the rich brown nut with the pale brown scar, the resemblance to the half-opened eye of a deer is not fancied but real. From this resemblance came the name buckeye."

How it happened that Ohio was called the Buckeye State is not so certainly known. Dr. S. P. Hildreth, the pioneer historian of Marietta, in describing the ceremonies attending the opening of the first court of the Northwest Territory, September 2, 1788, mentions the presence of a large body of Indians, representing some of the most powerful tribes of the northwest, who had come for the purpose of making a treaty. These sons of the forest were much impressed with the ceremonials. They especially admired the bearing of the high sheriff, Col. Ebenezer Sproat, a man of splendid physique, who with drawn sword, led the procession, and called him "Hetuck," which in our language signifies "big buckeye." This expression of admiration was afterward frequently applied to Col. Sproat, "and became a sort of nickname by which he was familiarly known among his associates."

"That," says the historian, "was certainly the first known application to an individual in the sense now used, but there is no evidence that the name continued to be so used and applied from that time forward, or that it became a fixed and accepted soubriquet of the state and people until more than half a century afterwards; during all of which time the buckeye continued to be an object of more or less interest, and as immigration made its way across the state, and the settlements extended into the rich valleys where it was found by travellers and explorers, and was by them carried back to the east and shown as a rare curiosity from what was then known as the 'far west,' possessing certain medical properties for which it was highly prized. But the name never became fully crystallized until 1840, when in the crucible of what is known as the 'bitterest, longest and most extraordinary political contest ever waged in the United States,' the name Buckeye became a fixed soubriquet of the State of Ohio and its people, known and understood wherever either is spoken of, and likely to continue as long as either shall be remembered or the English language endures."

The Ohio campaign opened at Columbus, February 22, 1840. Among





FRUIT OF THE OHIO BUCKEYE.



the striking devices to attract attention was a log cabin from Union county, "built of buckeye logs, upon a wagon drawn in the procession by horses." Within the cabin and on the roof the jolly campaigners sang a song composed by Otway Curry for the occasion, the words of which were in part as follows:

O where, tell me where  
Was your buckeye cabin made?

\* \* \* \*

'Twas built among the merry boys  
Who wield the plough and spade,  
Where the log-cabins stand,  
In the bonnie buckeye shade.

Oh what, tell me what, is to be your cabin's fate?

\* \* \* \*

We'll wheel it to the capital and place it there elate,  
For a *token* and a *sign* of the bonnie Buckeye State.

While this remarkable campaign did much to fix the appellation and give it wide currency, there is evidence that its significance was generally well understood at a much earlier date. Cyrus P. Bradley, while in Ohio in the summer of 1835, made this entry in his journal:

We were shown many specimens of the buckeye, the shrub or tree from which the inhabitants of Ohio derive their national soubriquet. It bears a round nut, which is covered with an outer rind or shell, and on whose surface appears a white circular spot like the pupil of the eye.

This shows conclusively that the emblematic significance of the buckeye was known at least five years before the Tippecanoe campaign. Just when it was first applied to the state of Ohio and its citizenship, is a problem for the local historian of the future.

In the light of the foregoing statements, we must not take too literally many of the fanciful things that have been said and written of the buckeye. It is true, as Dr. Drake observes, that "it is not merely a native of the West, but peculiar to it; has received from the botanist the specific name of *Ohioensis*, from its abundance in our beautiful valley; and is the only tree of our whole forest that does not grow elsewhere." It was never extensively used, however, for many of the other qualities that he enumerates in his entertaining and inspiring address at a banquet given in Cincinnati, on the occasion of the forty-fourth anniversary of the admission of Ohio into the Union. The wood, which is light, soft and strong, has been used for bowls and artificial limbs. The bark has certain medicinal qualities. The fruit, though not edible, is beautiful to look upon. Though inferior in its foliage to the horse chestnut and the sugar maple, it can



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*Scarlet Carnation and Ohio Buckeye.*

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be trained into an attractive shade tree. All things considered, the name of no other tree of our primeval forest, perhaps, could more appropriately have been chosen as the soubriquet of Ohio.

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For interesting and very appreciative descriptions of the buckeye, see the following:

Howe's "Historical Collections," Vol. 1, pages 210-7. In these pages will be found a description by William M. Farrar, including the address by Dr. Drake.

"The Ohio Magazine" for August, 1906. Here will be found under the caption "Ohio Tree Family," a fine article by Lena Kline Reed, appropriately illustrated, in which is told the story of the Ohio buckeye tree.

Vol. IX of the New International Encyclopædia, page 576, contains fine illustrations of the Ohio buckeye and the horse chestnut.

## OHIO'S JEWELS AND McKINLEY MEMORIAL.

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### OHIO'S JEWELS.

At the northwest corner of the Capitol building, in Columbus, stands a group of bronze statues on a substantial and symmetrical pedestal of granite. The figures about the central shaft are statues of Grant, Sherman, Sheridan, Stanton, Garfield, Hayes and Chase. Surmounting the shaft is an effigy of Cornelia, the Roman matron, mother of the famous Gracchi. Near the top of the shaft are inscribed her words as handed down by the historians, "These are my jewels."

The story is so familiar that it need scarcely be repeated here. Cornelia lived in the early days of the Roman republic. She was famous for her culture, refinement and devotion to her children. One day she was visited by a patrician lady friend, arrayed in costly raiment and decked with brilliant gems. After exhibiting the latter, the guest said:

"Cornelia, where are your jewels? I should like to see them."

"And I shall be delighted to show them to you," was the reply.

With some pretext she beguiled her visitor until her two sons, fresh from school, entered the room. Then, her face beaming with motherly pride, she led forward the Gracchi boys and said, "These are my jewels."

The boys afterwards grew up to manhood and gave up their lives in the service of their country.

General Roeliff Brinkerhoff suggested this interesting group of statuary. In his "Recollections of a Lifetime" he has described the inception and evolution of

"OUR JEWELS."

The genesis of this monument in brief, was as follows:

In February, 1891, at a banquet in Columbus, of the Ohio Archæological and Historical Society, I was put upon the program to respond

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*Ohio's Jewels and McKinley Memorial.*

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to the toast: "Ohio at the Columbian Exposition." I had no time for preparation, but as I was last on the list of speakers I did not worry myself, as the chances were I would not be reached, and in any event, the hour would be so late that I could get off with very few words. However, as the speaking traveled my way, I began to think how best to present Ohio at the fair, and the more I thought about it the more difficult it seemed to show any special pre-eminence for our state.

Ohio, as a whole, could not be excelled, but when I tried to enter into particulars it was not easy to show superiority, for some other state could do as well or better, and I began to get nervous. All at once, however, it flashed into my mind that it was not bigness or material resources that gave renown to a nation as much as the character of its men and women, and I remembered Greece and Palestine, and my speech was ready, for in men of international renown Ohio was peerless among the states. At eleven o'clock, when my turn came, I amplified my idea, and wound up with the suggestion that Ohio should be represented at the fair by a group of statuary, in the center of which should be a noble matron to represent Ohio, and around her should be such children as Grant, Sherman, Sheridan, Chase, Stanton, and Garfield; and then upon the pedestal should be engraved the proud utterance of Cornelia, the "Mother of the Gracchi," "These are my Jewels." A resolution was unanimously adopted recommending the legislature to adopt the suggestion, and appropriate the funds necessary to put in granite and bronze.

Later on, in December, I was invited by the trustees of the reformatory to go with them to Canton to meet Governor-elect McKinley, and with us was the architect of the reformatory, Captain Levi T. Schofield, who was also the creator of the soldiers' monument at Cleveland, Ohio. At dinner in Canton I was next to Captain Schofield, and it occurred to me to tell him about my proposed monument, and ask him what he thought of it. It struck him favorably, and subsequently he wrote me he had made drawings for it, and these he brought with him later, at a meeting of the board in Columbus. All seemed pleased, and I proposed to Schofield that we go over to the capitol and show it to the adjutant-general. General Pocock took to it with enthusiasm, and asked me to write him a letter explaining fully the proposed monument, which I did on my return home. The result was, he presented the matter to the state commission, and through them to the legislature, and the required appropriation of \$25,000 was made, and in due time the monument was completed and I was called upon to dedicate it.

As to the merits or demerits of the monument as a work of art, I do not care to consider here. Suffice it to say it served its purpose, and gave to Ohio a pre-eminence which no one disputed, which was its sole





"THESE ARE MY JEWELS."

purpose so far as I was concerned. After the fair was over the monument was removed to Columbus, where General Hayes was added to the group.

The Ohio monument, apparently, had its origin in the inspirations of an after-dinner speech, and to a large extent that is a fact; and yet I am not sure but the inspiration, after all, had its origin in my decorations at Washington City in 1865, at the jollification in the celebration of Lee's surrender, which I have already described. "Ohio's Quota" contained all the figures on the monument except Chase and Garfield.\*

ADDRESS OF GENERAL R. BRINKERHOFF

*At the Dedication of the Ohio Monument, Jackson Park, Chicago,  
September 14, 1893.*

We, the citizens of Ohio, have met to-day in this pantheon of the nations to remember and honor our own great state. Whilst we are Americans, and proud of our nationality, we are also proud to believe that in the galaxy of states there is no star brighter than Ohio. Nowhere on the rounded globe is there another block of land of the size of Ohio which equals it in all the essentials required for the abode of civilized men. In fertility of soil, in diversity of products, in mines of coal and iron, in quarries of stone, in healthfulness of climate, in beauty of landscape, in accessibility of location by water and by land, she is absolutely peerless.

Leaving out the great cities of New York, Philadelphia and Chicago, which are alien rather than native, and are the creations of commerce and not the children of a state, Ohio is easily the greatest state in the Union in population and wealth, and always will be.

Whilst we remember all this, and are proud to remember it, we also remember and are glad to remember that the highest glory of a state or nation is not in bigness, but in mind, as manifested and represented by its men and women.

Two thousand years ago that contracted peninsula in the Aegean Sea was but a speck in size compared with the surrounding countries, and yet, to-day, in architecture and in art, in oratory and in song, in literature and in philosophy, and in all that makes a nation truly great, the republics of Greece are the models of the world.

Two thousand years ago, and for a thousand years before, Palestine was but a handbreadth on the continent of Asia, between the Jordan and the sea; and yet in all the nations of the world's annals the Hebrew is the most memorable and the most potential.

So in a concourse of nations, the highest claim for recognition must be mind and not matter — men and not things. So in this concourse of nations in which we are now gathered, Ohio is not ashamed to present her achievements in comparison with the proudest, both in matter and in mind;

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\* At this celebration General Brinkerhoff had displayed illuminated portraits of Grant, Sherman and Sheridan over which was the inscription "Ohio's Quota."



for around us to-day, in every department of human endeavor, the image and the superscription of Ohio is pre-eminent.

To-day, however, in the dedication of this monumental group, we call attention to the fact that in men of international renown, Ohio is absolutely peerless among the states and nations of this western hemisphere. Like the constellation of Orion in the heavens, we have six stars of resplendent magnitude, and in the inventory of our treasures, "these are our jewels."

Who they are and what they were is known to all mankind, and therefore for the purposes of this exposition, a biographical description is not necessary, but for the purposes of this gathering of Ohio people, it seems proper for those who knew them, not only to bear testimony to their pre-eminence as soldiers and statesmen, but also to give personal recollections of acquaintance with them. I knew them all, and some of them intimately. Grant, Sherman, and Sheridan are the only soldiers who ever attained the full rank of general, in the United States, since the organization of our government. In the splendor of their achievements, they have never been equaled upon this continent, and have never been surpassed by the soldiers of any other continent. They were not only great soldiers, but they were also patriotic citizens, and never thought a thought or dreamed a dream, that was disloyal to liberty or the institutions of their native land.

So with Chase, Stanton, and Garfield; they were not only statesmen of the highest rank, but they were also noble-minded gentlemen in all the relations of life. Mr. Chase, mentally, morally and physically, was the noblest man, I think, I have ever known. He was the friend of my youth, and the friend of my manhood, and I knew him better than any other public man of high position. He was my political god-father, and I followed his banner until he died. As an anti-slavery leader before the war, as a financial organizer during the war, he had no equal. As a statesman, as a patriot and as a Christian gentleman, I do not know of any one since Washington, more worthy of honor by the nation or more worthy of imitation by coming generations.

Edwin M. Stanton, next to Lincoln, in my judgment, rendered more important service in subduing the Rebellion than any other man. Never in the history of the nations, has there been a war secretary of larger ability, or greater devotion to the cause he represented. He was the right hand of the President in the great struggle, and a century hence, when history can be written in truer proportions than is possible now, the name of Stanton in the great rebellion will be next to Lincoln. No one, perhaps, in the great struggle was more misunderstood than Mr. Stanton. To the multitude he seemed harsh, and to many cruel, and even now to the majority of Americans, I apprehend such ideas are more or less dominant, but to those who were near enough to him to know him intimately, and I was one of them, there was no man more kind, or considerate, or appreciative. To drones, or laggards, or shirks, he was merciless, but to every one, high or low, who was efficient, and sought to do his duty, he was always a friend. Of those upon our monument, there is no one, perhaps, of wider international renown than President Garfield. The pathos of his death, as much as the achievements of his life, has made him immortal. No man in this generation was endowed by nature with larger gifts, and no one, probably, ever came to the office



of president better equipped for the discharge of its duties, and, therefore, the calamity of his taking off has filled the world with sorrow. I was associated with him in many ways before the war, during the war, and after the war, and a more attractive man I have never known. I doubt if any man in public or in private life had more friends and fewer enemies than James A. Garfield.

In conclusion, let me say that we as citizens of Ohio have reason to thank God and rejoice that we have a heritage so glorious as the memories of the men we celebrate to-day. The emulation of examples like these makes nations great, and keeps them so. The soil out of which such men have grown is good to be born on, good to die for, and good to be buried in.—*Brinkerhoff's "Recollections of a Lifetime."* pp. 331-5.

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### McKINLEY MEMORIAL.

An imposing statue of William McKinley occupies a commanding position at the western entrance to the State House grounds, Columbus, O. The entire cost of this work of art was \$50,000, one-half of which was contributed by the citizens of the capital city, and one-half by the State through an appropriation by the General Assembly.

The statue was unveiled September 14, 1906, in the presence of 50,000 people. Mrs. Nicholas Longworth, daughter of President Roosevelt, drew the silken cord that released the draping flags from the statue of bronze. In the evening eloquent addresses were delivered by Judge William R. Day, of the United States Supreme Court, and Hon. John W. Daniel, United States senator from Virginia.

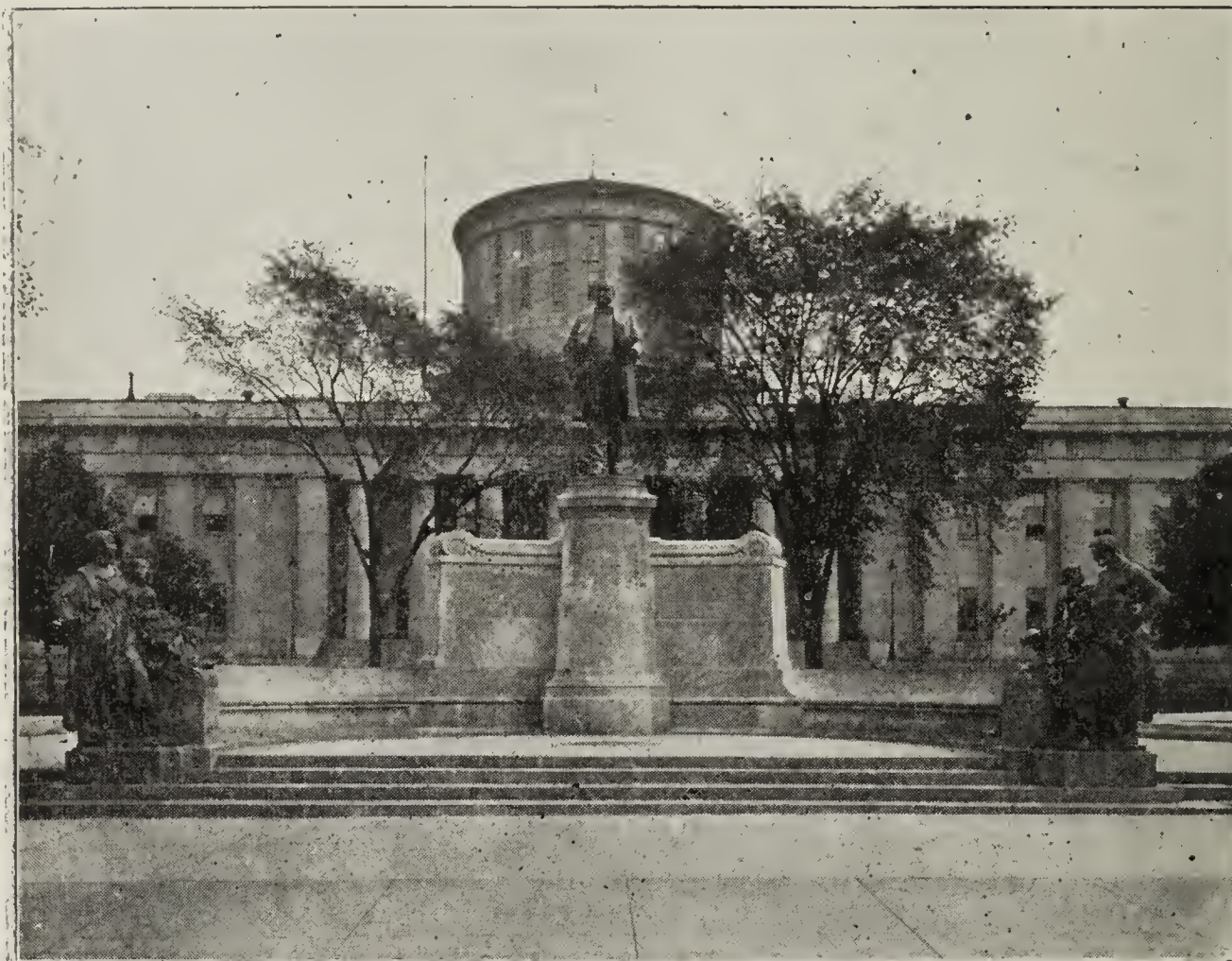
The memorial is in the form of an arc of a circle. In the center is the pedestal surmounted by a figure of heroic size representing President McKinley, as he delivered his last address at the Pan-American Exposition. At each end and connected with the central pedestal by a granite bench are bronze groups of allegorical figures, "intended to typify American ideas and sentiments that underlie good government."

"On the right is the type of physical force and human energy in repose—beside whom is seated the youth of the coming generation in the attitude of intense study—counseled by the practical wisdom of maturity. Together they typify prosperity through progress.

"On the left is a beautiful figure of a woman, typical of those noble attributes of heart and home for which this country stands and which were exemplified in the man toward whom she looks. Her left hand, protectingly encircling the maiden at her side, places above the emblems of war (sword and helmet) the palm of peace. The maiden holds in her hand a wreath. This group is intended to symbolize the tribute of the people to McKinley."

On the stone work on either side of the statue of McKinley are quotations from his last address. On the left:

*"Let us ever remember that our interest is in concord, not conflict; and that our real eminence rests in the victories of peace, not those of war."*



McKINLEY MEMORIAL.

On the right:

*"Our earnest prayer is that God will graciously vouchsafe prosperity, happiness and peace to all our neighbors; and like blessings to all the peoples and all the powers of earth."*



## TRAVELING LIBRARY DEPARTMENT.

Soon after the organization of the Library Commission under the law of 1896, the Board entered upon the consideration of ways and means to make the library more accessible to the people. It was agreed that inasmuch as the institution is supported by general taxation, all citizens of the State, as nearly as possible, should enjoy alike the privileges of the library. They already had free access to books on the shelves for purposes of reference, but the members of the Board were unanimously of the opinion that something should be done to make the material in the library more readily available to those living remote from the State Capital.

It was decided that every encouragement, consistent with limited appropriations, should be extended to this class of prospective patrons by furnishing information from the reference department through the mails. A circulating department also was opened on equal terms to all citizens. Books were sent out by mail and express, the borrowers paying transportation both ways.

The traveling library system, already in operation in a few other states, was considered. No appropriations had been made for that specific purpose, but ample warrant was found for its establishment in the following clause of the law:

The Board of Library Commissioners shall \* \* \* make such rules for the government of the library and the use of its books and other property of the library as they may deem necessary."

In order that the library might enter upon its larger mission to the State, the traveling library system was introduced. On November 6, 1896, the first traveling library in Ohio was sent to a women's club in



Mt. Vernon, Miss Nora Mulvane, Librarian. Unheralded it prepared the way for thousands to follow. The second traveling library went to a similar organization in Piqua, November 12, Miss Mary M. Jones, Librarian. The first sent to a school went to Adelphi, J. B. Selig, Superintendent, librarian. Yankee Hill was the first rural school to patronize this department, Elba Pence, teacher and librarian. The first traveling library drawn by a farmers' organization went to Darby Grange, No. 729, West Jefferson, W. H. Hamilton, lecturer and librarian.

The Legislature at its regular session in 1898 appropriated \$4,000



Four Traveling Libraries have been issued to D. C. Bundy, Barnesville, Ohio, for the use of Belmont Grange.

for traveling libraries. This help was most opportune. It at once relieved the drain on the State Library and made it possible to meet the growing demand with books selected for this new department.

The subsequent history of the traveling library in Ohio has been a record of uninterrupted and accelerating growth. It is steadily and satisfactorily accomplishing the purposes of its founders. No other work undertaken by the state in recent years has done so much to stimulate a library interest among the people. Through this agency books have gone out to those who need them most—to communities that have no local library privileges. No explanation is necessary to demonstrate that a well chosen collection of books in such a community may become an influence for good and a stimulus to better things.



As will be seen by reference to the application forms, organization and the appointment of a local librarian are necessary before a traveling library may be received from the State Library. These preparatory steps and the experience that comes through the practical management of a small collection of books, naturally encourage organization of a more permanent character. It is eminently fitting that the State should do this missionary work. Where patrons cannot afford to go to the books, books at the trifling expense of transportation should go to the patrons.



For five years the Members of this Club, The Athenians, of Bellefontaine, Ohio, have found the Traveling Library indispensable in their work.

If it is the duty of the State to educate, it is likewise its duty, within reasonable limits, to furnish the means of education.

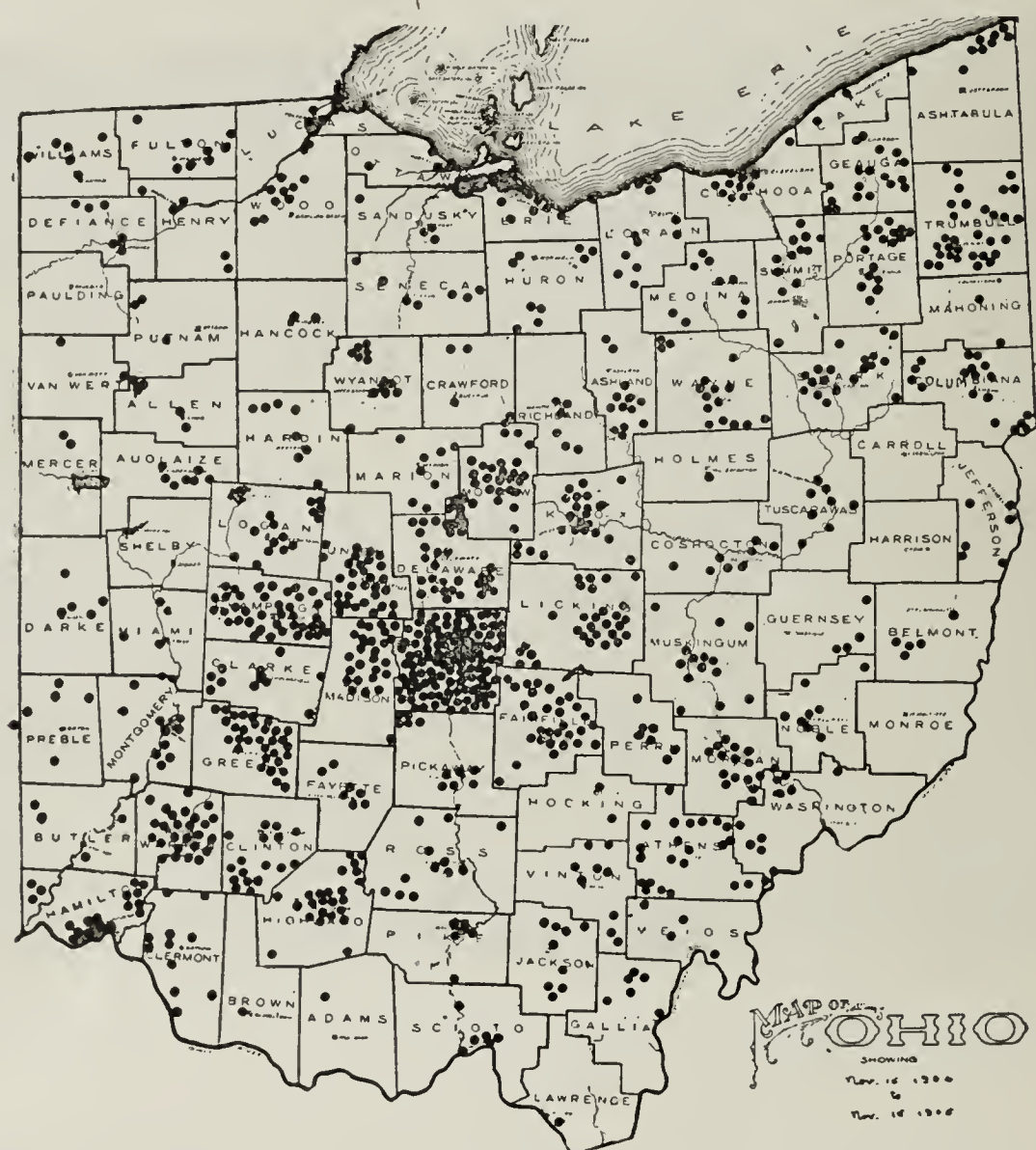
One of the great advantages of the traveling library system is the facility it provides for exchange. When the books have been used by one organization they can readily be transferred to another, and this exchange can be carried on almost indefinitely. In time the patrons of one community have thus the opportunity, at small expense, to read many books.

In Ohio, when the books in a traveling library are returned to the State Library they are not kept intact as a collection, but are placed on shelves in the order of their classification. From these shelves traveling libraries are made up and sent to different parts of the State. This



makes additional work for those who issue the libraries, but at the same time enables them to make selections that are more satisfactory.

A permanent record is kept of the traveling libraries issued and lists of the books included in each are constantly at hand for reference. They serve as a guide in sending out traveling libraries to organizations that have already had one or more of these. These records complete, together with map here produced on small scale, continually furnish tangible evidence of what this department is actually accomplishing.



Dots on above Map indicate points to which 1,027 Free Traveling Libraries (36,000 volumes) were issued from Ohio State Library in 1905. (In 1906, 1,106 libraries, aggregating 40,007 volumes, were issued.)

Since the introduction of this system by the State, it has been utilized in different localities as a successful agency in the distribution of books. The Public Library of Cincinnati, which, under the present special act is open to the people of Hamilton County, first extended the sphere of its activities by the establishment of delivery stations. Recently it has supplemented these with a number of traveling libraries that are doing excellent work. The free traveling libraries of Franklin County, organized in 1898, under the direction of Judge Tod B. Gallo-



*Traveling Library Department.*

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way, have been welcome visitors to the rural schools of the county. The Brumback County Library of Van Wert has inaugurated a traveling library system of its own with gratifying results. This system will doubtless be introduced in other sections of the state. It is remarkably elastic and readily adapts itself to local conditions.

The statistical table exhibits the steady growth of the Traveling Library Department of the Ohio State Library. According to the Year Book for 1907, issued by the League of Library Commissions, Ohio



Library in Union Township High School, Union County, where Traveling Library books are always to be found. J. A. Yealey, Supt.

leads all states of the Union in the number of traveling libraries issued annually and the communities reached by this method of book distribution. For the year ending November 15, 1906, 1,106 traveling libraries, aggregating 40,007 volumes, were issued to 796 different communities. These traveling libraries were distributed as follows: To women's clubs, 187; to schools 526; to granges, 110; to independent study clubs, 126; to religious organizations, 94; to libraries, 27; to men's clubs, 26.

The following explanatory notes, sent out in response to inquiries, define the traveling library, set forth its objects, and state the conditions under which it is loaned:



## TRAVELING LIBRARIES.

OBJECTS: 1.—To furnish good literature to the public. 2.—To strengthen small libraries. 3.—To create an interest in the establishment of new libraries.

A traveling library is a collection of from twenty-five to thirty-five books sent out by the State Library to a reading club, an association of citizens, a board of education, or a public library, to be kept four months, with privilege of renewal.

On receipt of a request on the forms furnished by the State Library, properly filled by the members of the club, the officers of the free public library, board of education, or other association, the books will be shipped. The parties receiving the books must pay transportation both ways.



Troy Ministerial Association. Rev. W. H. Wehrly, Librarian.  
The Association has been issuing Traveling Library books for the past six years.

No catalogues of books in the circulating department of the State Library are sent to patrons for the following reasons: 1.—We have no appropriation for the publication of a catalogue. 2.—We are frequently adding new books, and a catalogue would not show what could be furnished. 3.—Thousands of books are continually in circulation, and we should rarely be able to furnish the list made from a catalogue.

Where patrons desire it, a list of books can be made in accordance with general directions and submitted for approval before the Traveling Library is shipped.

If a list of books desired is sent with the application, it will be furnished as nearly as possible; if only the general subjects are named, books relating to those subjects will be sent.

The Ohio State Library desires a wider circulation for its Traveling Libraries. Those wishing to borrow them should address a card or letter to the State Librarian, requesting application forms and instructions.



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*Traveling Library Department.*

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## INSTRUCTIONS ISSUED WITH TRAVELING LIBRARIES.

The following instructions are sent with each traveling library to the person selected to take charge of the collection of books:—

We do not presume that you need any specific directions in regard to your duties as librarian of this collection of books. Your good judgment and appreciation of the purposes for which the Traveling Library Department of the Ohio State Library has been established will be the best guide to your work.

Your position, however, is not without its opportunity. You may make this little library an influence for good while it is in your charge. A general rule that you may safely follow is compressed into a single sentence:—Keep the books in circulation and do not lose them. If a book is lying idle, try to think of some one in the community who would be interested in it and read it. If the members of your organization are not using all the books, there may be others to whom they could be safely loaned and who would appreciate the opportunity to read them. The traveling library movement is missionary in character.

You will find it advantageous to have shelves provided for the books. This can be done at trifling expense. If more shelf room is provided than will accommodate the books sent you, the additional space can be used for other books donated or loaned to your organization. You may thus lay the foundation for a permanent local library. Here is your opportunity. You "have only to reach forth to it" and it is yours. Some kind of a library is possible in every community.

The best return that you can make for the loan of this library is a report showing that the books have been widely circulated and read.

## NOTES TO PROSPECTIVE PATRONS.

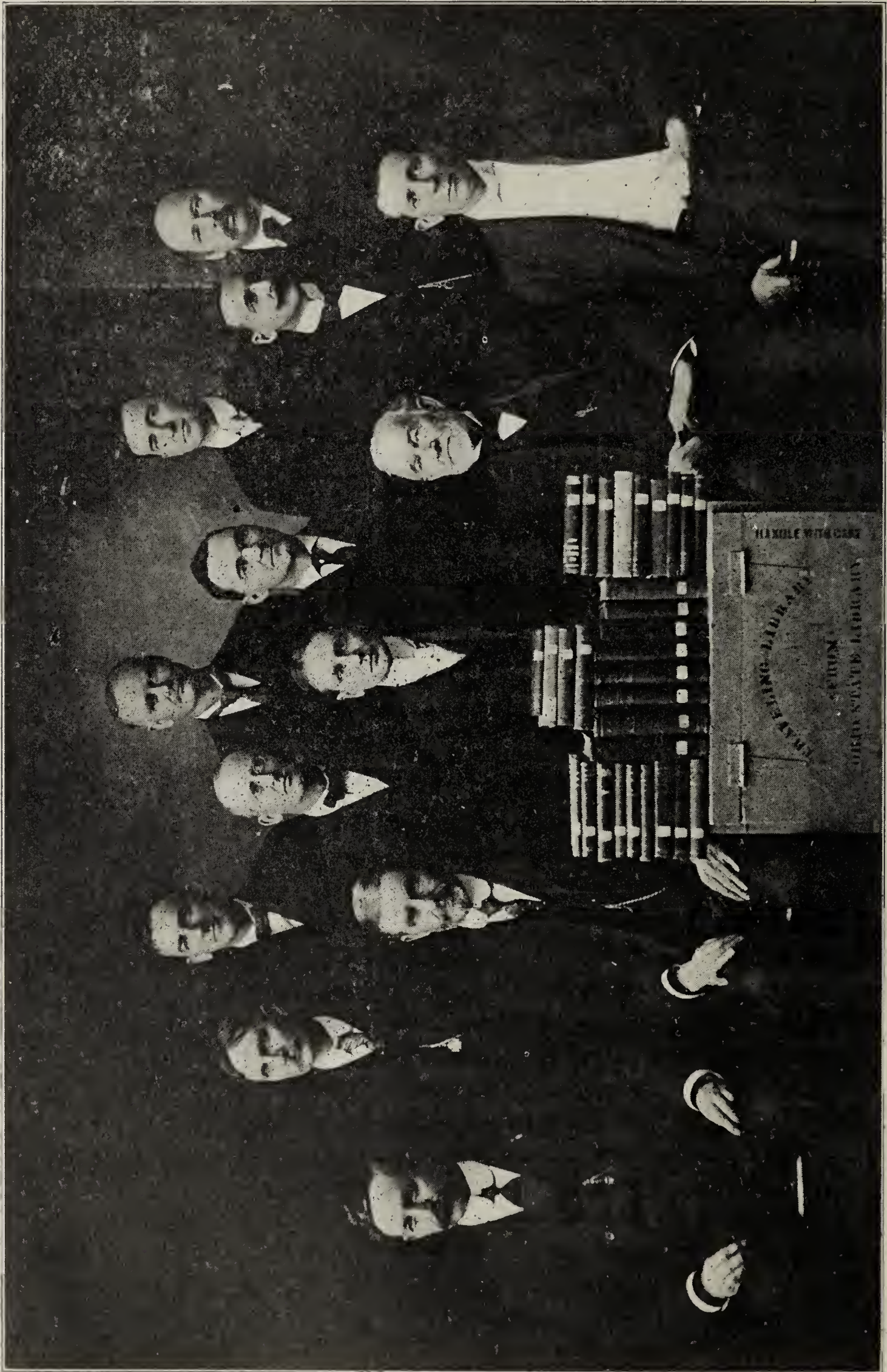
Remember that it is easy and inexpensive to borrow a traveling library. You have only to request the printed blanks from the State Librarian, fill them in accordance with directions, return them and pay transportation. The State Library will do the rest.

It is believed that many small libraries will find it most advantageous to borrow and place on their shelves for use of patrons one or more traveling libraries. A number have already done so.

County libraries with small revenue for books may borrow traveling libraries and distribute them to various parts of the county. They will prove cheap and efficient aid in the organization of county work.

In no instances, perhaps, have traveling libraries been more successfully used than in rural schools, under the administration of progressive township superintendents. Prof. A. B. Graham, of the Ohio State University, former superintendent of the schools of Springfield township, Clark County, Ohio, in the following communication tells how the traveling libraries may be used to build up permanent libraries in the country schools.



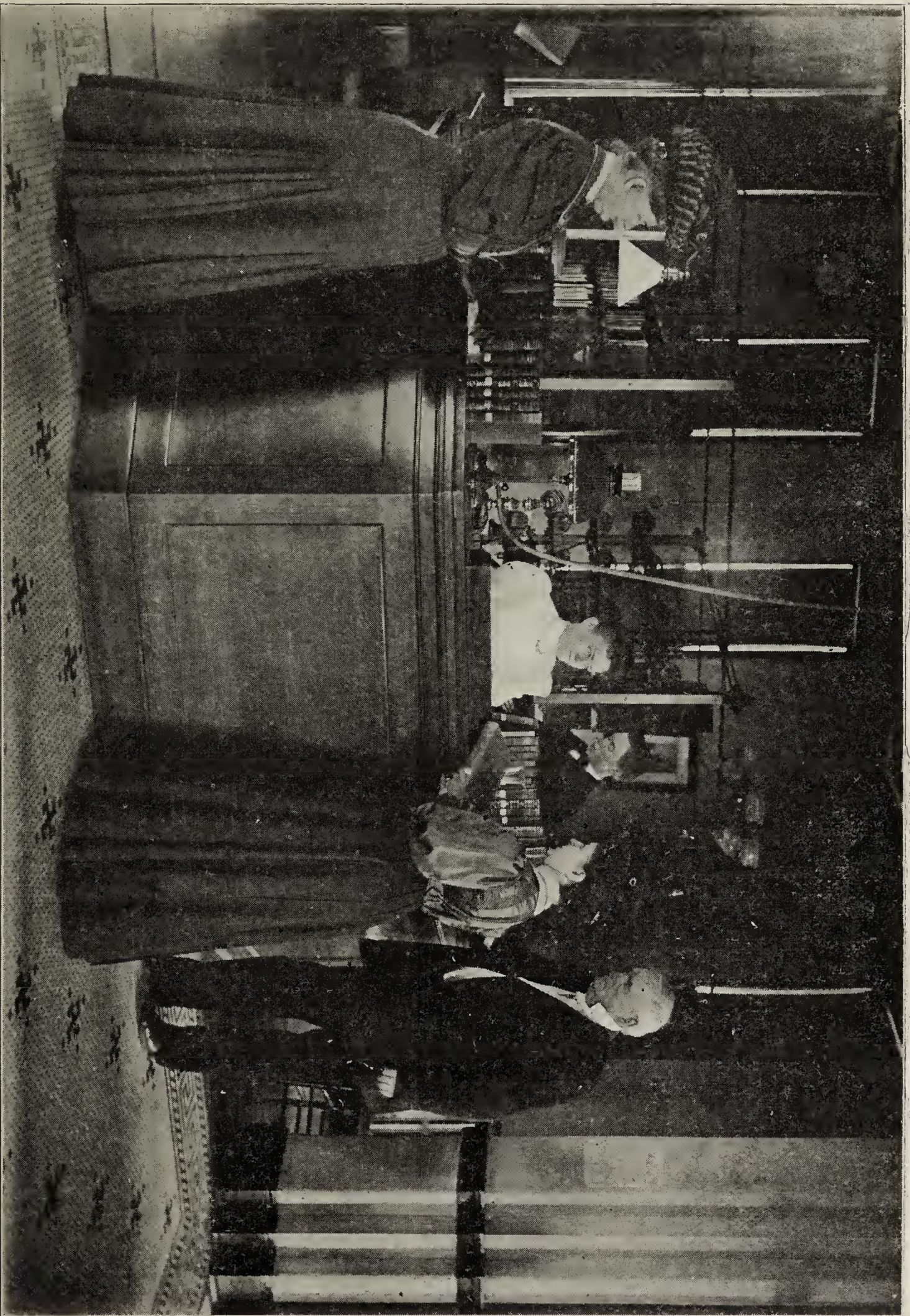


Twice Five Club of Logan, Ohio. — Appreciative patrons of the Traveling Library Department of the Ohio State Library.



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Wilmington Public Library, Miss Minnie Farren, Librarian. This library has used about one thousand volumes from the Traveling Library Department of the Ohio State Library.



## THE VALUE OF THE TRAVELING LIBRARY IN DISTRICT SCHOOLS.

BY PROF. A. B. GRAHAM.

At the newsstand or department store book counter are found hundreds of cheaply bound volumes of standard fiction for adults. Not infrequently they are printed on the cheapest wood paper that in a few months becomes as yellow as a manuscript of the middle ages.

Sartor Resartus, John Halifax Gentleman, Mill on the Floss, Sesame and Lilies, The Pilot, Knickerbocker's History of New York, Ramona, The Scarlet Letter, Adam Bede and many other good books of this kind, purchased at bargain counters often occupy shelf room in district school libraries to the exclusion of more modern, standard, well written books for children of an age to be found in such schools. Dollar after dollar has been spent to purchase such books as are adapted to adult minds only or to those much older than most children of the elementary grades. Cheapness, the number of books, and their appearance on the shelves are quite as often considered as the tastes, interest, and understanding of the child. Every book selected for school libraries, permanent or traveling, should be subjected to the test of adaptability, utility, and proper ideals.

That libraries might be started in township schools, the law, prior to 1902, permitted township boards of education to spend seventy-five dollars from the contingent fund. Very few boards took advantage of this section of the law. Prior to 1902 rural school houses had been furnished with all kinds of practically useless apparatus, simply because enough interest was created to purchase them.

Libraries can not be placed in schools unless an interest in them is created. A library itself is of little use if no interest in it is aroused among pupils. Interest promotes and supports every movement.

In 1900, the Board of Education of Springfield township, Clark county, became interested in libraries. Fifteen dollars for each of its twelve schools were appropriated. But no book publisher's prepared list was purchased. Only after several weeks spent in examining different books was the list completed.

As soon as they were placed in the schools, parents as well as children became readers of the district school library. Each grade from the second to the eighth inclusive had something adapted to it. It was immediately found that books in simple dignified language for the upper grades were always welcome in the homes. When the teacher, the children, and the patrons become interested in libraries, there is a demand for more well written books. In the case mentioned the Board of Education had spent all and more than the law at the time permitted. No more could be spent that school year.



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*Traveling Library Department.*

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The Board decided to apply to the state traveling library for a box of books for each sub-district. The express charges both ways were willingly paid. Each box contained from thirty to forty well selected books. There was something for the youngest at school who could read well, and something for the oldest at home. Quite as many of



Some of the Traveling Libraries that Prof. A. B. Graham used in the Schools of Springfield Township, Clark Co., Ohio.

them were used in the homes as in the schools. When the year had closed all were pleased with the new libraries. Everybody said "Let another appropriation be made next year." The second appropriation was made and the new books were soon in the schools. Calls were made also for the traveling library boxes. This time a special request was made that each box should contain two or three books on agricul-



tural subjects. The boxes were retained for nearly the entire year. Many were changed from one school to another.

Each year the township has been able to use about four hundred volumes in addition to what had been purchased by the Board of Education. A habit of reading the best class of literature was being acquired by both parent and pupil. Not infrequently an interested parent was permitted to retain for a day or two a book that might be much needed at school. The general knowledge that was acquired can never be estimated. It has been observed that in examinations or in ordi-



The members of this Sunday School class at Versailles, Ohio, have become enthusiastic patrons of Ohio's Traveling Library Department.

nary conversation the children of these schools give evidence of the fact that the books have been used to a good purpose.

The third year the full limit of the new township school library law was appropriated and a book case purchased for each sub-district. Two hundred and fifty dollars in addition to what had already been spent was making the total spent in three years for each subdistrict approach forty dollars. With such an amount of money quite a number of the excellent books that had been learned about by means of the traveling library were purchased that they might become the permanent property of the school. This year it was found that there were so many volumes in the traveling library boxes that could be found in



*Traveling Library Department.*

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the subdistrict library that it was decided that since the traveling library had so well served its purpose it would not be applied for.

The interest that was once aroused in the township referred to has never abated and year by year the annual appropriation is made by the Board of Education. In each school is found a case containing over two hundred books.

The traveling library did four things for the township: It furnished a high grade of supplementary books; it provided free many books before they could be purchased; it brought to the farmer's door some of the standard works on agricultural subjects; it offered a variety of material and authors from which to select for permanent libraries.



Traveling Libraries in the Schools of Dover Township, Union County,  
J. B. Barker, Supt.



STATISTICS.

The summary of the work of the Traveling Library Department indicates the growth of the system and the class of patrons.

*Libraries have been issued from the Traveling Library Department as follows:*

Year Ending November 15.	1896.	1897.	1898.	1899.	1900.	1901.	1902.	1903.	1904.	1905.	1906.*
To women's clubs .....	2	37	69	75	125	138	146	140	131	159	187
To schools .....		10	89	177	252	251	310	409	468	437	520
To granges .....		2	92	46	95	100	80	71	78	129	110
To independent study clubs .....		7	128	90	179	224	153	181	160	168	120
To religious organizations .....		1		35	50	50	87	85	89	82	94
To libraries .....		4		20	10		27	16	26	33	27
To men's clubs .....		1		2				21	14	19	36
Total .....	2	62	378	445	711	763	803	923	966	1,027	1,106
Number of volumes .....	50	1,331	9,887	12,877	19,505	20,698	22,031	27,078	30,935	36,441	40,007

\* Libraries issued within the year ending Nov. 15, 1906, were sent to 796 communities.

### THE COUNTY LIBRARY IN OHIO.\*

Among the laws enacted at the last session of the General Assembly was an act authorizing the establishment and maintenance of county libraries. Such a law has been on the statute books since 1898, but it contained provisions that made it difficult for many counties to organize under it. The amended law is much more general in its application. Following is the text:

"The county commissioners of any county may receive a bequest or gift of a building, or of money, or property wherewith to construct a building for a county public library, or to furnish and equip such library; may accept the gift of a library, or of its use either for a term of years or permanently; and may enter into an agreement on behalf of the county to provide and maintain such library.

Any library association, or other organization, either owning or having the full management and control of a library, and any board of trustees appointed by authority of law, and having the management and control of a library free to the public of the whole or a part of the county, may enter into an agreement with the county commissioners for the use of such library by the people of such county.

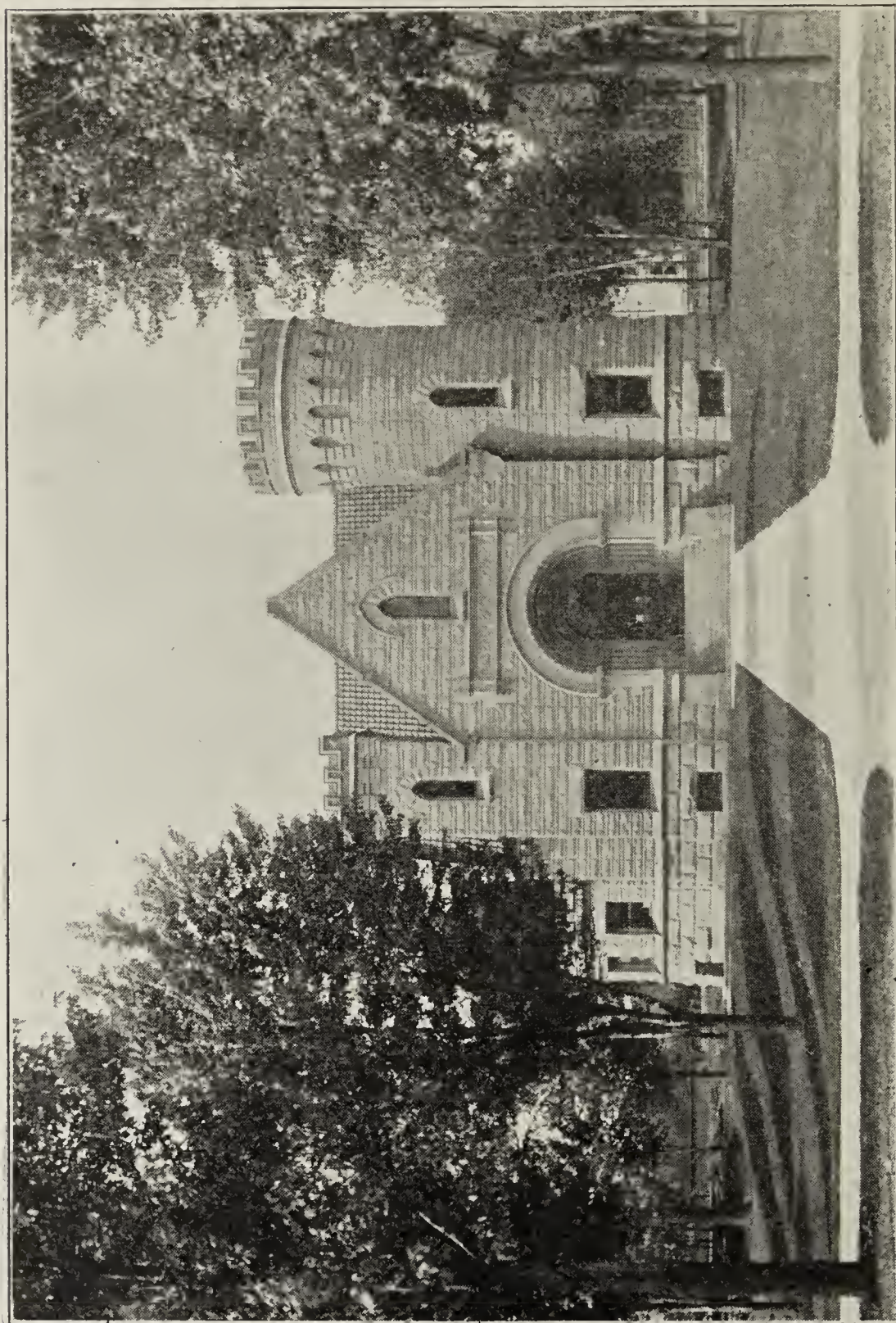
Any county accepting such bequest or gift, or entering into such agreement shall be bound to faithfully carry out the agreement so made to maintain and provide such library. The commissioners of any such county are hereby authorized at their June session each year to levy a tax of not exceeding a half mill on each dollar of taxable property of such county, and the fund derived from such levy shall constitute a special fund to be known as the library fund, and shall be used for no purpose other than is contemplated in this section."

Where there is no library at the county seat, this law certainly holds forth new inducements to establish one. Those interested should not

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\* Published in April, 1907.





BRUMBACK LIBRARY.

(Van Wert County Library System.)



forget in this connection that it is not yet too late to apply to Mr. Carnegie for money to erect a library building. The opportunity is always open to public spirited citizens, like the late J. S. Brumback, of Van Wert County, to rear such monuments to the cause of education in their respective counties.

While any community in the state may maintain some sort of a library under our general law, the fact remains that in many villages and districts the tax levy would not be sufficiently large to warrant necessary book purchases and efficient administration. A comparatively small levy on the entire county will be adequate for all purposes. The county may be made the unit of library administration in the interest alike of economy and satisfactory service.

The law authorizing the establishment of county libraries makes it easily possible for any county in the state to provide, at small expense, library privileges for all its citizens. When a library already exists, preferably at the county seat, those interested in opening it to the free use of all the people of the county should present their plea to the county commissioners, set forth advantages of the system and urge that a contract be entered into with the library trustees to open the library to the people of the county. The sympathy and support of the press, the schools and public spirited citizens of every class should be enlisted in the movement—a movement worthy of the enthusiastic advocacy of every one who has faith in the beneficent educational agency of the free public library.

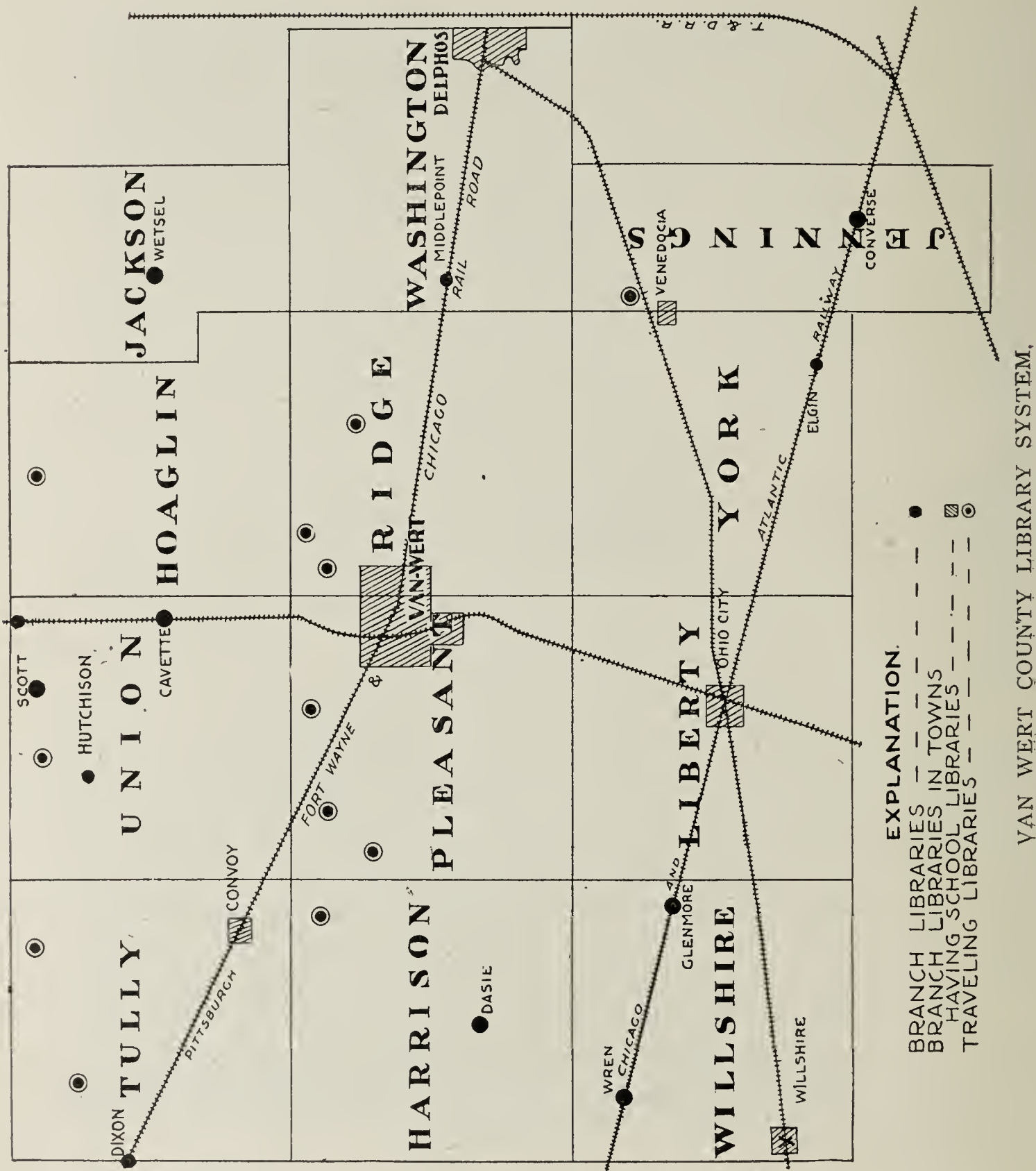
The system is ideal. With the central library at the county seat, branch libraries in the outlying villages and stations for the delivery of books at convenient points of access in the rural districts, the people of the entire county can have the uplifting influence that springs from the companionship with books. This ideal system is practical as well. It has been tested in the counties of Van Wert and Hamilton, of this state, and in both it has been most popular. The law as amended brings the opportunity for such a work to every county in the state.

In this issue we present the results of county library work in the state. The two counties are typical. In Hamilton county, the city of Cincinnati includes the greater portion of the population; in Van Wert county most of the people live in the country.

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#### THE BRUMBACK COUNTY LIBRARY.

In his will the late J. S. Brumback of Van Wert, Ohio, suggested that \$50,000 of his estate be used for a public library building, on condition that the library be supported by the county and made free to all its citizens. Through the efforts of his heirs a law was passed author-





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izing the county to accept the gift on the conditions specified. The county commissioners complied with the conditions and made a levy for the support of the library. The building was dedicated, January 1st, 1901. Mr. E. I. Antrim, in the Forum for May of that year, describes the inauguration of the work:

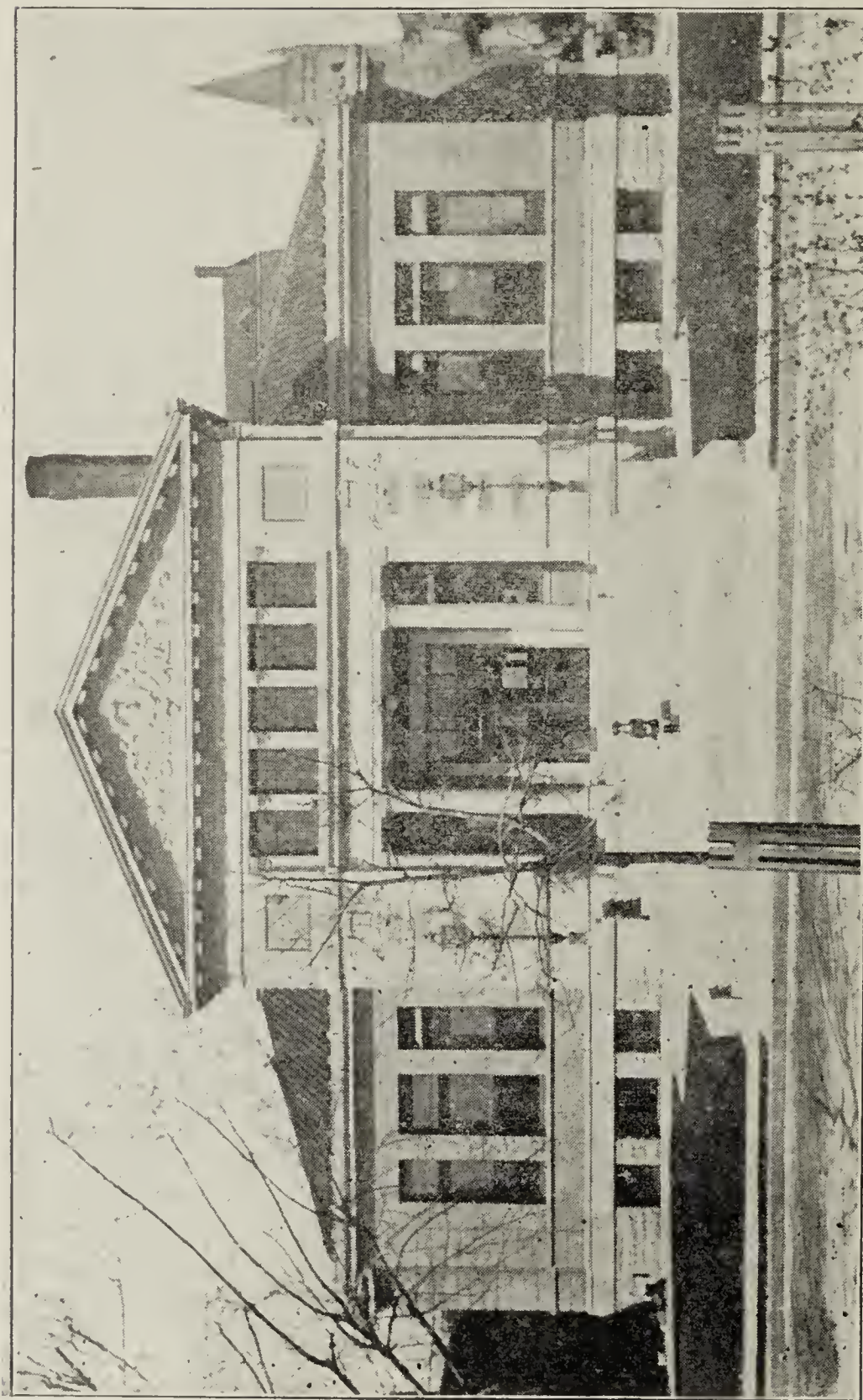
"The method adopted by the Brumback Library to bring its books to all parts of Van Wert County is easily explained. The library itself . . . which represents a value of \$50,000, receives an annual income of fully \$6,500, and has a stack-room capacity, when all available rooms shall be used, of 100,000 volumes — is located in the city of Van Wert, the county seat of Van Wert county. Fortunately, this city is located in the center of the county, which contains in round numbers 275,000 acres and has a population of nearly 35,000. Besides the central library, there are ten branch libraries, which are so situated that every resident of the county is within easy access of the library itself or one of its branches. The ten branches have a unique feature in the form of what may be called a traveling library system, and are also in direct communication with the central library. The ten branch libraries are placed in the more important stores or offices in the villages of the county, where they are excellently managed, by virtue of the fact that those having charge of them are given nominal salaries.

To start the traveling library system, the library trustees purchased 1,000 books, most of them entirely new, which were sent to the ten branch libraries, 100 to each branch. After keeping its 100 books two months, each branch sends them to one of its neighbors to take their place. So the books pass from branch to branch until each branch has had the thousand books, when they are returned to the central library. In the meantime, another 1,000 books have been purchased and put into readiness to repeat the experience of the first thousand."

To the branch libraries here described have been added others and traveling libraries in boxes that circulate to communities outside of villages. The accompanying map shows the condition of the various book distributing agencies at the beginning of the current year. The following table contains statistics of interest:

Total number of volumes in circulation January 1907.....	13,654
Total circulation for year ending January 1907.....	56,833
Circulation 19 schools (3 months).....	1,703
Circulation 16 "Branch libraries".....	15,794
Circulation Central library.....	39,336





BRANCH LIBRARY, WALNUT HILLS, CINCINNATI.

(Hamilton County Library System.)

County Library in Ohio.

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The following are the statistics for each branch for the past two years:

Location.	Population.	Number of Borrowers.		Circulation.	
		1905.	1906.	1905.	1906.
Cavett .....	60	71	86	338	417
Converse .....		53	54	476	530
Convoy .....	690	257	285	1,465	1,876
Dasie .....	75	70	73	488	446
Delphos .....	2,228	162	232	699	2,547
Dixon .....	175	92	99	453	477
Elgin .....	208	56	61	645	369
Glenmore .....		102	112	389	442
Hutchison .....		52	57	358	294
Middlepoint .....	604	198	218	701	838
Ohio City .....	862	209	236	1,816	2,195
Scott .....	344	202	227	2,192	2,162
Venedocia .....	199	171	186	679	557
Wetsel .....		149	161	536	602
Willshire .....	560	193	212	1,133	1,373
Wren .....	242	104	122	668	668

All the branches, except Scott and Delphos, have had an average of about 500 volumes for the year 1906. Scott and Delphos have had about 800.

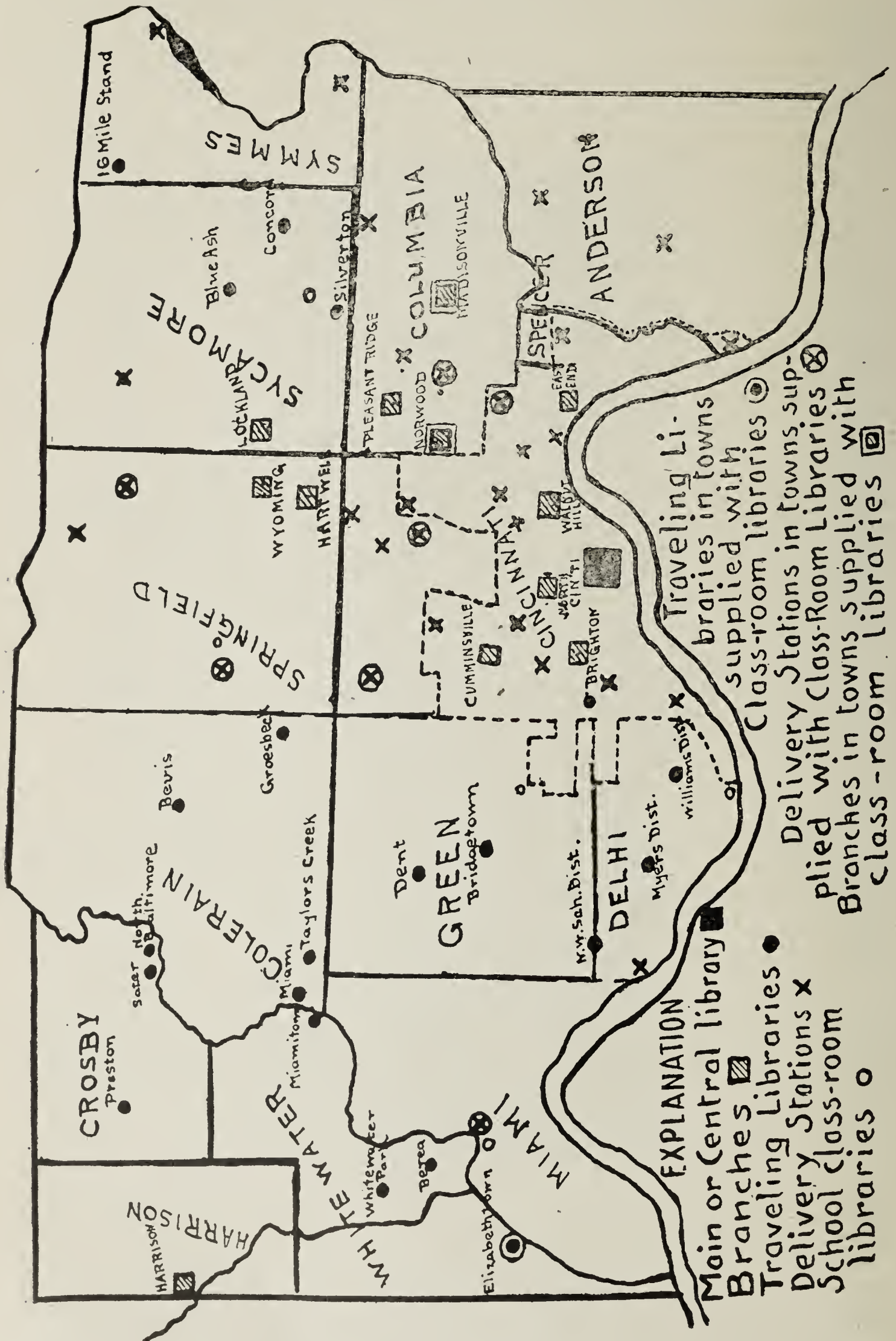
PUBLIC LIBRARY OF CINCINNATI.

The main building of the Public Library of Cincinnati is situated in the center of the city, within easy reach of the thousands of men and women who do business there. That this situation is advantageous is shown by the crowds which visit the library during the noon hour and after work in the evening.

In addition to the main building there are three branches in operation within the city limits, one containing 7,400 volumes, another 9,400 and the third 14,700 volumes. There are also firemen's libraries in the various engine houses, and in districts remote from the main library, delivery stations, home libraries and school libraries.

The work of the Public Library of Cincinnati, however, is not confined to the city of Cincinnati. Its privileges were extended to all residents of Hamilton county by an act of the Legislature of Ohio passed April 21st, 1898. This act provides that the "Board of Trustees . . . may levy annually a tax not to exceed five tenths of one mill on each dollar valuation of the taxable property in the county." Branch libraries, delivery stations, deposit, traveling and school libraries are used to meet







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the needs of readers in the outlying districts. There are six branch libraries outside of the city limits in the suburbs of Wyoming, Madisonville, Lockland, Harrison, Hartwell and Pleasant Ridge, the smallest containing 1,475 volumes, the largest 3,210 volumes. Three of these branches are open six days in the week, the others, three days. A seventh branch which will contain between eight and ten thousand volumes will shortly be opened at Norwood. In addition to their own collection of books, the branches also have the privilege of drawing books that may be needed from the main library.

Delivery stations contain no books, but those desired by patrons are secured from the main library, there being delivery either daily or several times a week. Deposit libraries are small collections of books, deposited at a delivery station or branch for a limited period, generally for the use of a club.

Each traveling library contains sixty volumes, a selection of good literature in the various classes, a large proportion being juvenile. There are twenty of these libraries in the rural districts of the county remote from railroads and express companies. They are deposited in school houses and stores or in homes if no more suitable place can be found. They remain in one locality about six months or until all the books have been read and then they are removed to another place.

Teachers in the various schools in the county are entitled to draw books from the main library to reissue to their pupils, the number so taken being limited to one-half of the number of pupils in the room. These books are sent out for the school year and returned in June. During the past year forty-seven libraries were deposited in fifteen schools of the county.

For the foregoing sketch we are indebted to Mr. N. D. C. Hodges, Librarian of the Cincinnati Public Library. The following interesting statistics are gleaned from the latest report of the library and its agencies:

## CIRCULATION FROM PUBLIC LIBRARY OF CINCINNATI.

	<i>July, 1905- June, 1906.</i>	<i>Year Ending April, 1907.</i>
Central Library .....	489,656	494,379
Delivery Stations .....	167,125	130,743
Traveling Libraries .....	7,810	6,556
School Libraries .....	23,821	26,608
Branches .....	96,885	235,240
Firemen's Libraries .....	8,640	8,640
Home Libraries .....	5,810	4,885
Total .....	799,747	907,051

With the opening of the Branches the neighboring delivery stations have been practically abandoned, causing a decrease in circulation through Delivery Stations as a whole.

As a result of the floods, all work at three home libraries was suspended during three of the best reading months.

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#### ADDITIONAL INFORMATION.

Those interested in the establishment of county libraries are invited to correspond with the Secretary of the Board of Library Commissioners, Columbus, O., for additional information.















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